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SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES
COMMITTEE

Reference: Australian Public Service employment matters

FRIDAY, 23 JUNE 2000

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SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE

Friday, 23 June 2000

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

Substitute members: Senator Allison for Senator Ridgeway

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

Senators in attendance: Senators George Campbell 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.

WITNESSES

BLUNN, Mr Anthony Stuart (Private capacity)	161
BOXALL, Dr Peter, Secretary, Department of Finance and Administration	198
BRENT, Mr Ronald Ian, Director, ScreenSound Australia, The National Film and Sound Archive	168
BURNS, Ms Julia, Branch Manager, Comcar, Department of Finance and Administration	198
HARRISON, Ms Jennifer, Team Leader, Values, Conduct and Diversity, Public Service and Merit Protection Commission	143
KENNEDY, Mr Peter, Deputy Public Service Commissioner, Public Service and Merit Protection Commission	143
LAMOND, Mr Jeffery George, Team Leader, Staffing, Structures and Performance Team, Public Service and Merit Protection Commission.....	143
McLEOD, Mr Ron, Commonwealth Ombudsman	168
MORAWSKA-AHEARN, Ms Jenny, General Manager, Corporate, Department of Finance and Administration.....	198
O'BRIEN, Dr John Michael (Private capacity)	187
PENFOLD, Ms Hilary Ruth, First Parliamentary Counsel, Office of Parliamentary Counsel	168
SULLIVAN, Ms Barbara Joan, Manager, People Strategies Branch, Department of Finance and Administration.....	198
VAN BARNEVELD, Ms Kristin (Private capacity).....	187

Committee met at 9.02 a.m.

HARRISON, Ms Jennifer, Team Leader, Values, Conduct and Diversity, Public Service and Merit Protection Commission

KENNEDY, Mr Peter, Deputy Public Service Commissioner, Public Service and Merit Protection Commission

LAMOND, Mr Jeffery George, Team Leader, Staffing, Structures and Performance Team, Public Service and Merit Protection Commission

CHAIR—I declare open the fourth public hearing of the Finance and Public Administration References Committee's inquiry into Australian Public Service employment matters. Today the committee will seek evidence from current and former public servants and academics. I welcome witnesses, my Senate colleagues and observers. 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. Mr Kennedy, would you like to make an opening statement?

Mr Kennedy—Yes, thank you very much, Mr Chairman. Ms Williams asked me to apologise to the committee for her inability to be present this morning. She had a longstanding commitment, prior to the scheduling of this hearing, to give a paper at a conference. The main matter that I would like to mention since Ms Williams's statement to the committee on 18 February is that we are now working on the commissioner's next state of the service report for the year 1999-2000. In her report last year, the commissioner concluded the report by stating at page 138:

Achieving the correct balance between devolution and accountability is therefore essential to maintaining a professional, ethical, and responsive public service that will meet the expectations of Ministers, Parliament and the Australian public for high performance in the years ahead.

The commissioner hopes that she will be able to follow up on some of these issues in her next state of the service report. The commissioner saw her first state of the service report as really enabling her to set out what the present state of the Public Service was. In the second report last year, she looked generally at the implementation of the values. She is hoping in this next report to start to identify a number of themes that she can look at. The themes that she has chosen for the 1999-2000 report are the implementation of the Public Service Act, the need to balance accountability and flexibility, and a number of service-wide issues. The commissioner has now written to all APS agency heads seeking information and comments to assist her in the preparation of that report. Would it assist the committee if I were to provide copies of the letter to agency heads, and the accompanying questionnaire which sets out the issues the commissioner will be looking at?

CHAIR—Do you wish to table that?

Mr Kennedy—Yes.

CHAIR—There is no objection.

Mr Kennedy—There was nothing else I wanted to say by way of an opening statement. Thank you, Mr Chairman.

Senator WATSON—It must be a very difficult role determining values. Do you prioritise values? Apart from values of loyalty, integrity, et cetera, what are the special APS values that you seek to promulgate or inculcate into the Public Service? I see it nowadays as very little different from just another employment—like being a member of the Esso group or something like that. People come; they have contracts; they serve out their contracts and go. What are the special values that you now wish to engender, apart from the normal ones of a good work ethic?

Mr Kennedy—The approach that we have taken in the commission and we take when talking on training courses to managers is to say that with the passage of the Public Service Act in 1999 we now have a set of values set out in the Public Service Act which was a statement from parliament to the Public Service of the values that it expects the service to be managed by. While individual agencies might have additional values or principles that they are concerned with, everyone in the APS must start with the parliament's statement of what the values are that it expects of the Public Service. The commissioner has followed this up in her Public Service directions by trying to indicate in relation to each value what she thinks agency heads should be doing to ensure that the value is implemented in the agency and also what she expects all other APS employees to be doing. The values will inevitably sometimes be in tension with each other. We have stressed the importance of agencies talking to their staff about the values and also helping the staff to understand how the values are applied in each particular agency.

Senator WATSON—For the *Hansard* record perhaps it might be helpful if we have incorporated the values that Mr Kennedy has been speaking about.

CHAIR—Those values are contained in section 10 of the Australian Public Service Act. Is it the wish of the committee that the section 10 of the Australian Public Service Act be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The document read as follows—

Senator WATSON—There is very little there that is different from a big corporate organisation. Obviously you expect it to be apolitical. There may be some cynicism in terms of people's interpretation of that in certain areas based on merit. That is expected of all organisations nowadays with this other legislation to ensure that that takes place. Again, it comes back to what you really focus on in your role. Is it the implementation of values? I cannot see anything different from a personnel department in a big organisation, for example, inculcating values to achieving results and managing performance. It is all good management practice.

Mr Kennedy—I think that is true, that a number of the values are values which you would expect any well-run organisation in Australian society to have. When we talk to our staff about what might be the extra values which the parliament wants of the Australian Public Service, the one that we particularly emphasise—and I take Senator Watson's comment on this one—is value (a), that the APS is apolitical. We think it is very important that staff fully understand their obligation to work and serve the government of the day. I think that value (e), that the APS is openly accountable for its actions, within the framework of ministerial responsibility to the government, is probably one which, in that form, would be more applicable to a public sector organisation than to a private one. I think that value (f) about being responsive to the government, the obligation in value (g) about delivering service fairly, effectively, impartially and courteously to the Australian public, and probably value (m) about providing a reasonable opportunity to all eligible members of the community to apply for APS employment, and value (n), about providing a career based service to enhance the effectiveness and cohesion of the democratic system, are ones which you would not necessarily expect to find in a private sector organisation.

Senator WATSON—Why do we need this to be conducted centrally? Having got the act there, why shouldn't it be the responsibility of the individual managers to inculcate those ideas in the manner most appropriate to the discharge of the individual portfolio responsibilities? You say you conduct seminars and workshops and all other sorts of training courses. Why should you do that rather than individual departments? They have specific focus in terms of the delivery of certain types of services or obligations.

Mr Kennedy—I think that is correct. I may have created a slight misapprehension. Section 12 of the act obliges each agency head to uphold and promote the values. The work we do is seen as supporting, facilitating and reinforcing that. We are there really helping the agency heads, and then the commissioner has an obligation to report to the parliament on how effectively she thinks those values have been given effect to. But in the end the responsibility for upholding and promoting them in each agency is, under this legislation, the responsibility of the agency head.

Senator WATSON—When you run the courses, do you try and get people when they initially join the service or when they reach the top level or the middle level, or do they span all classifications? What is your focus?

Mr Kennedy—We have a couple. We do a lot of training for the Senior Executive Service. We provide some management training for senior officers and also some induction training for graduates in the departments that want to do it. But the bulk of the training would be done by agencies.

Senator WATSON—How long does the training take and what is the scope of it? Do you run it out of a university type of environment or at your central office, or do you go into particular agencies and run it?

Mr Kennedy—We do all of those things. The graduate training that we provide to agencies that want to do it is run in conjunction with the University of Canberra. It has a number of blocks of training plus other exercises while the graduates are back on their jobs. The middle management training that we do can be everything from half a day's course to two days provided in-house in a particular agency. It really varies. With the Senior Executive Service, it is everything from half a day to residential courses.

Senator WATSON—So it is taken pretty seriously?

Mr Kennedy—Yes.

Senator WATSON—That is the limit of my questions in terms of values and code of conduct, Mr Chairman.

CHAIR—I have got a couple of questions in relation to this issue. These values are, I think, pretty well understood by the community as well as by people joining the Public Service. I assume they would have been developed over a long period of time. There is one in particular, however, that gives me some concern in terms of the current direction of the Public Service. That is the one that talks about promoting equity in employment. It goes to the question in your opening comments of the devolution of power to individual agencies for a whole range of matters, including negotiation of conditions of employment, salaries, performance pay, et cetera. We have already been given evidence, in previous hearings of this committee, of a variety of approaches being taken by different agencies in respect of how they handle these matters and, obviously, differences in the way in which individual employees are treated within the agencies in the context of wages and conditions outcomes. How do you see that sitting alongside this value of promoting equity in employment? And how does that relate to the opening statement by the commissioner about seeking to achieve the correct balance between accountability and devolution?

Mr Kennedy—This is a very difficult issue. We are aware that a number of people have concerns of the sorts you have just articulated in your question to me. In the workplace diversity report last year, the commissioner's conclusion was that progress was probably still satisfactory, in the generality, for women and for people from non-English speaking backgrounds. But she identified a particular concern in relation to people with disabilities and Aboriginal people and Torres Strait Islanders. I could give you a graph which explains what has been happening and would illustrate more clearly the nature of the commission's concerns in those areas.

CHAIR—Are you happy to have that tabled, Senator?

Senator WATSON—Yes, very good. Have you similar graphs for the employment of youth? That is one of the criticisms often aired in the parliament.

Mr Kennedy—I can give you some information which is helpful in that area, yes. But should I deal with these two first?

Senator WATSON—Yes, please.

Mr Kennedy—If you look first at the multicoloured document called ‘APS permanent staff: gender’ you can see there that we have looked at the various clerical groups and worked out how many of them were male and female in each of the classifications. If you look at the pink and blue group you can see that in 1987 it was at the ASO3 level and that would be the general operational level in the large service delivery agencies when women started to become fewer than men. If you go to the green and the yellow and go to the ASO5 you can see that we have achieved roughly equal gender balance by 1999 at the ASO5 level.

If you look at the pink and the yellow group down the rest of the page, you can see that the proportion of women has been moving up. Women are being promoted into each group from senior officer grade C to SES band 2 at rates that are higher than their present proportion. So the commissioner felt that she could see progress in that area, and that was why she expressed the comment that I attributed to her. If I could turn to the other graph—

CHAIR—A lot of my women colleagues would argue that that is not very significant progress.

Mr Kennedy—If you are a woman who is in employment at the moment, you would clearly see there is a long way to go before you get complete equality, and that is why I said that the progress seemed to be in the right direction. But it is still a long way from reflecting community composition at all levels of the—

CHAIR—The gap is substantial at the higher levels.

Mr Kennedy—Yes. It is being reduced but it is nonetheless substantial and at the rate of change you are probably looking at another 10 to 15 years, I would think, before you approach equality across the service. That is not a statistical prediction; that is just my feel for what is happening.

The other graph shows APS permanent staff, EEO groups other than women. If you look at the blue line and the green line, you can see that the proportions of people from non English speaking backgrounds has remained relatively stable over the period from 1989 to 1999. But if you look at the red line, which is people with disabilities, you can see that their proportions have been declining. Similarly, if you look at indigenous recruitment, you can—

Senator WATSON—Is that because we have better ramps, better access and that sort of thing?

Mr Kennedy—It has declined over the period, particularly from 1990 down to 1999, from just under six per cent to just over four per cent.

CHAIR—Is there any particular reason for it, Mr Kennedy? Have you done any analysis of why that is occurring?

Mr Kennedy—I think we do not fully understand what is happening. There is some anecdotal evidence which would suggest that, with broadbanding and a range of other issues, some of the jobs which people with disabilities used to have in the service are no longer there. One of the things we will be looking to try and do over the next couple of years is to talk with the Office of Disability to see if we can get a better indication of what sort of disabilities people who are in the service have. Hopefully, that might give us some better idea of why we seem to be getting fewer people with disabilities in the service. I think it is something like 25 per cent of people do not give a response to the question as to whether they have a disability. So we also have to try to improve the level of data collection.

CHAIR—I am just wondering whether the new wages structure, the devolution of authority to the individual agencies and the drive for efficiency also might be factors in people with disabilities being squeezed out.

Mr Kennedy—You will certainly get anecdotal comments made to us that are as you described. We have got no statistical evidence to indicate at this stage whether that is right or wrong. But there is no doubt that there are people in the service who think that that is the reason for what is happening.

With Aboriginal and Torres Strait Islanders, which is the mauve line at the bottom, you can see that the figure increased from a lower base in 1989, got to over two per cent, and it now seems to be coming down. One of the reasons seems to be that, with the downsizing that has taken place, more Aboriginal and Torres Strait Islander staff have left than you would have predicted on the basis of their proportion in the service. For example, they were about two per cent, but they represented something like three per cent of redundancies.

We have now set up an indigenous employment group that is a network of people concerned with those issues. We are starting to develop some guidelines and a booklet to help people promote indigenous recruitment. In the new commissioner's directions, we have made it clear that the capacity to waive normal requirements in relation to indigenous recruitment applies not only at the base level but to appointment at any level in the service. But we think the thing we have to focus on is why they are leaving because the recruitment seems to be holding up better. Mr Chairman, it might help if I were to give you one other table that compares the proportions.

CHAIR—Just before we go off this one, I have a couple of questions. In respect to indigenous employment. Presumably a lot of indigenous employees of the Public Service were employed in outlying areas and the Northern Territory, et cetera. Has their employment within the service been impacted by contracting out and outsourcing of a variety of services by various departments?

Mr Kennedy—I can only half answer the question. Indigenous staff are very strongly congregated in those organisations which have a large service delivery role in relation to the

indigenous population. You do not find them distributed throughout the service on a proportional basis. They are overwhelmingly in what you might colloquially call the lower classification levels of the service. We do not have locational data in relation to staff to enable us to tell from what locations people are leaving. With the APS employment database, we are hoping in the future to collect locational data which may go some way to answering the second half of your question. We just do not know.

CHAIR—In terms of the employment of Aboriginal and disabled people, there were a number of centralised schemes, such as salary supplementation, to assist in the employment of people with disabilities and Aborigines. Are these schemes still in place or have they gone as a result of a devolution of responsibility to the agencies?

Mr Kennedy—I am looking at Ms Harrison as I talk to make sure I have got it right. I understand that the centralised scheme for Aboriginal recruitment has now ceased.

Ms Harrison—Yes.

Mr Kennedy—That is no longer in place.

CHAIR—Is there any alternative in place for that?

Mr Kennedy—Not that I am aware of on a central basis. It is now the responsibility of the Department of Employment, Workplace Relations and Small Business. Before that, it was the responsibility of DEETYA. There was never a general central program in relation to the people with disabilities but there was a particular program in relation to people with intellectual disabilities. That is still in place. We have just commenced a survey of agencies. I think that, of the 23 agencies we surveyed, only one came back and said that they were using the scheme now. It seems to be that, while the scheme is still in place, it is no longer being picked up by agencies. We have just started the survey so it is too early for us to answer the question of why that is.

CHAIR—When is the likely outcome of that survey, Mr Kennedy? That is of considerable concern to us, obviously, for workplace diversity.

Mr Kennedy—We would hope that we would have the material ready for this year's workplace diversity report, which will be for the year ending 30 June 2000. I think the commissioner is aiming to have that available by September or October this year.

CHAIR—Will that survey look at the correlation between the devolution to agencies for greater responsibility for employment matters and the decline in the use of a central program?

Mr Kennedy—It is probably too early for me to speak about just what it will look at, because it has only just started. But certainly I will note the comments you have made.

CHAIR—I will phrase it in another way: is the approach to the survey being made in such a way that that correlation is likely to be picked up?

Mr Kennedy—My feeling is that it probably will not pick it up.

CHAIR—Could you take that on board and have a look as to whether or not you can do something in terms of a survey to pick that correlation up.

Mr Kennedy—Yes. To complete this, could I provide you with another table which compares these groups with the population. What we have done is look at the four groups. We started with the proportion that these groups represent in the labour force, the labour force being defined as people who in the ABS surveys either are employed or have indicated to ABS they are looking for employment. Then we looked at employed persons, which is that part of the labour force; next we tried to look at the proportion of each group in occupations which would be roughly equivalent to Public Service occupations and look at permanent APS staff; and, finally, we took the total population. So you can see how we compare against those various groups. In a sense, the figures speak for themselves, although I would be happy to answer any questions.

Senator WATSON—Following on the chairman's question, Mr Kennedy: in terms of the devolution of responsibilities and the outsourcing of services, is there any reference in those contracts of engagement to ensure that levels of indigenous and other disadvantaged groups are maintained in terms of what may be regarded as an acceptable Public Service ratio? Otherwise maybe we could expect these downward trends as devolution continues. Are these issues acknowledged in the arrangements or contracts of devolution—maintaining reasonable levels or equivalent levels to ensure that people who would previously be employed in the Public Service and who suffer disabilities for one reason or another do not, in a global sense, lose their relative position in society in terms of employment?

Mr Kennedy—As a commission we are certainly conscious of the issues Senator Watson has raised. We only have a responsibility for people who are employed under the Public Service Act, so the question of what sorts of requirements should go in contracts to deal with the issues that Senator Watson asked about would be outside our responsibility. There is probably no central knowledge of whether contracts are containing clauses of the sort that Senator Watson mentioned. I feel that a lot of them probably do not, but that would be just intuition. We do not know and technically it is probably outside our area of responsibility.

Senator WATSON—I have the same sorts of feelings that you have in relation to this area, but don't you think you should be seeking to enhance your powers to ensure that there is recognition in the contracts of outsourcing, or whatever may be the official documents, to ensure that people with disabilities are not going to be forgotten in the drive for economy and efficiency?

Mr Kennedy—I think our view would be that that is a matter for parliamentary committees such as yours and for the government. It is probably not appropriate for us as a statutory authority to be seeking expansions of our power.

CHAIR—What is going through my head, following on from what Senator Watson has said, is that we now have a set of circumstances where certified agreements and AWAs are run past the Department of Employment, Workplace Relations and Small Business to ensure they meet the criteria of the government's objectives. I wonder whether it would be a good idea if they were run past your department to make sure they meet APS values—also in terms of the conditions of these contracts?

Mr Kennedy—I understand that question. One of the other issues we are concerned about and have written about is the situation where you have people employed under contracts and sitting in an APS workplace. What are the arrangements for monitoring and the expectations about their behaviour in relation to the APS employees who sit beside them and who are under a very definite code of conduct and set of values? There is a range of issues we are trying to draw to people's attention.

Senator WATSON—That is a good point, too.

CHAIR—Mr Kennedy, in the first hearing we had when Ms Williams was here we had a discussion about the ageing nature of the APS. What is your department doing? Is your department engaged in looking at this issue? What policy prescriptions may be available to redress this trend?

Mr Kennedy—Would it help if I table some graphs showing what the situation is and then talk about it?

CHAIR—You have come very well prepared for this.

Mr Kennedy—You can thank the secretariat, Mr Chairman. Here is a graph headed 'Age profile' showing the proportion in each five-year and then 10-year cohort in the APS. That is the pale blue area. The percentages add to 100. Comparing that with employed persons, we proportionately employ considerably fewer people under 24 years of age than are employed in the community as a whole and we employ marginally fewer people who are 55 and over than in the community as a whole.

The other chart gives you some indication of the median age—that age where you have 50 per cent above and 50 per cent below. The red line shows that, from a median age 10 years ago of 35, the APS now has a median age of about 40. The yellow line shows that the median age of appointments, while it has varied much more because it is a smaller number, has also increased from 29 to approximately 32 in the same period. Curiously, the median age of all separations, having been below the median age for all staff, went above it and now seems to be going below it again. I mention that, but we do not know the reason for that. The effect, particularly of the appointments line and also the separations line if it continues, will be to continue to push the median age of the service up.

CHAIR—On that point, could that be partly attributable to the pressures for efficiencies within the private sector which results in younger people in the 30- to 35-year age group being more attractive in terms of employment opportunities in the private sector and older people perhaps transferring across from the private sector into the APS?

Mr Kennedy—I think that is possible. I do not show it here, but there is no doubt, even at base grade level, that the median age of base grade recruits is also going up. That bit may be for the first of the two reasons you gave—the younger people are more interested in private sector employment or think it is more readily available.

CHAIR—Or the remuneration is much more substantial.

Senator WATSON—Can you tease that out a little bit to give us further reasons as to why you think this is happening?

Mr Kennedy—When you look at our base grade recruitment, even for non-graduates, a significant proportion of the people who win entry tend to be graduates. More and more, we seem to be recruiting graduates into the service. Of course, once you start to do that, that means that your minimum age is going to be probably over 21. The move to broad-band work and to outsource a lot of the very routine work that used to be done by people who in the old days were known as clerical assistants would also mean that there are probably fewer jobs available for people who have not got a reasonable level of clerical skills or educational qualifications. It is almost as if the bottom bit of the traditional APS employment market has disappeared. So we are no longer recruiting people very often for base grade skills.

One of the other things anecdotally that we think is happening is that the increasing complexity of work in the large service delivery offices, such as Centrelink, the Australian Taxation Office and the Customs Service, is requiring in many cases people who have the sorts of temperament and skills which you would more often find with older people. They are often dealing with people who are under stress. There can be strained and tense situations. Our suspicion is that agencies are finding that the people who can handle that better are people who are often older and more experienced, even if they are describing the skills required in a non-ageist way. Again, that is anecdotal.

CHAIR—Has there ever been any research done within the service to look at the sorts of jobs that 15- to 19-year-olds and 20- to 24-year-olds were employed in, say, in the mid-1980s and the mid-1970s, and the proportion of those jobs that were still available within the service in the mid-1990s? I think your assessment is probably correct in that sense: a lot of those level entry jobs have disappeared or have been absorbed because of technology and a range of other factors—multiskilling and so forth. I do not know whether it is even possible to put that data together. It does raise the question of whether or not there is a need for a conscious policy position to be adopted whereby level entry jobs are specifically created for people in those age categories in order to balance out the age profile of the service.

Mr Kennedy—It is certainly the case that no systematic studies of the sort you described have been done. You may be right that it would be very hard to do. I am not even sure whether it would be possible to undertake those sorts of studies because you would probably be looking at some combination of establishment data and employment data. Certainly, that has never been attempted in the way you described.

CHAIR—I do not know whether this is something that your department or your authority can have a responsibility for—looking at this issue of providing level entry opportunities for 15-

to 19-year-olds and 20- to 24-year-olds so that there is an access point for people who want to seek employment in the Public Service in the longer term.

Mr Kennedy—Would it be helpful if I get Mr Lamond to give a bit of background on what we have been doing to encourage agencies to look at apprenticeships and traineeships through the ECITA program?

Mr Lamond—We have been working in two directions to encourage agencies to provide training and employment opportunities. One of those has been just a general promotional exercise to encourage agencies to consider employment under the New Apprenticeships program. That has been in existence for a while, although as far as I am aware we have no specific data on the agency uptake in terms of recruitment under that approach. The other thing which we have attempted to do, and which we have been successful in doing, is working with the state jurisdictions to establish a national public services training package which sets out the competencies required of individuals in the classifications APS1 to APS6.

APS1, APS2 and APS3, depending on the nature of the organisation, are characteristically the entry points. We have attempted with the other jurisdictions to define the basic competencies. We have now had a national services training package endorsed by ANTA and we are developing the training materials that will underpin that. I believe, in terms of discussions with my officers, that there is a great deal of interest in that package because it provides people with skills. It is articulated and recognised across the Commonwealth public sector and the state jurisdictions. It gives people identifiable skills, which they can develop credits for and articulate into further employment opportunities and skill levels. Through that mechanism we hope we will provide agencies with the capacity to bring in people at a lower level and invest in training and skill development and develop people in such a way that they work through a career in the Public Service.

Senator WATSON—That is to be commended.

CHAIR—That is very good. The profiles that you have given us all relate to the Australian Public Service. Are you aware of or do you have any comparable data for state public services? Has any comparison been done for what is occurring in terms of the public services within the states to see whether the trends are comparable at the state level as well as the federal level?

Mr Kennedy—I wonder whether I could take that question on notice. My understanding is that most state public service administrations do not keep data records on employment in a centralised way that are as comprehensive as ours. I think that it may also be possible to look at some of the Australian Bureau of Statistics employment surveys. One of the things they collect information on is employment category, private and state. Could we take that on notice and see whether there is any information we could provide. That would be on the age profiles of the state public services.

CHAIR—Yes, the age profiles, et cetera, and indigenous and disability employment. It would be interesting to see what the comparison is and whether the trends are similar across all the state public services and the federal public service—not so much, Mr Lamond, of whether it is going to be in your area but whether or not you know of any similar types of activity taking place in terms of traineeships, new apprenticeships or the level of entry.

Mr Lamond—I am uncertain as to the specifics. We have not conducted any studies. I know anecdotally, for example, that South Australia has a specific traineeship program for base level entry into the public service. That is limited to about a thousand positions.

CHAIR—Could you take those on notice too and let us know what is happening in the other state public services?

Mr Lamond—I also offer the committee, at a slightly later date, the competencies information so that you might find some benefit in understanding those.

CHAIR—That would be useful.

Senator WATSON—Time is starting to catch up with us but I would be interested in whether you could give us a separate submission of how you walk your new apprentices and recruits through the new apprentices training program. Would you take that one on notice. In terms of flexibility in retaining staff, I was a little surprised to hear—only anecdotally, mind you—that a lot of public service departments are having trouble attracting and retaining staff. I can appreciate it if the problem is Sydney-specific because I think everybody is having a lot of trouble there—costs are very high and there is a high turnover—but is that anecdotal evidence generally across the community or is it just Sydney-specific?

Mr Kennedy—That is very hard to answer. I can give you a qualitative response rather than a quantitative one. My impression would be that a lot of people join the Public Service because they see it as important work that they want to do. Everything else being equal, they are quite likely to stay. I do not think that overall our separation rates by resignation—that is, people voluntarily leaving—have gone up in recent years. But there is no doubt that with some specialist categories, such as information technology professionals—and people say it is true of economists too, but I have no personal knowledge of that—agencies seem to find it quite difficult to retain sufficient staff.

Senator WATSON—APRA in Sydney is a good example, isn't it?

Mr Kennedy—Yes. One of the other issues though is that, where an area is indicated as possibly likely to be outsourced, staff will sometimes think that if this is going to happen they might want to start looking for jobs. Sometimes one of the difficulties of retaining staff is occasioned by the fact that you have announced that in a year or so you might outsource the function. Some staff will naturally say, 'Even if we like working for the Public Service, we have responsibilities to our family, and we will have to look around for work.' Talking anecdotally, that is another factor that has to be put in. It is very hard to know whether people generally are having trouble retaining staff.

Senator WATSON—It is possibly a little too early because the full ramifications of devolution are not yet felt, are they? The immediate ones are but the long-term effects are still to be evaluated.

Mr Kennedy—It is very hard. You see comments in the papers that some agencies are having more problems. I know talking to other agencies that they are not at all worried about their

attrition rates. They do not think they are losing a lot of staff in the generality as distinct from particular specialists.

CHAIR—Mr Kennedy, in the discussions we have had previously, one of the arguments raised by a number of the agencies for the performance pay provisions has been to enable them to attract and retain staff with particular skills and expertise in their department. That also raises the counter-argument about whether or not there is a desirable feature of trying to provide a cohesive Public Service in terms of restricting the mobility of staff. Once you have a performance pay system within one department, for example, once they get up the ladder, if they want to move to another department, they have to climb down the ladder and start again back up in the department. That will tend to restrict mobility.

Is that coming through in your analysis of what is occurring across the service? Is that a desirable feature or is it a more desirable feature to have a more mobile work force within the Public Service across agencies so that people can build their expertise in a range of areas? What is the impact of that, at the end of the day, on the cohesiveness of the Australian Public Service? If we finish up having people basically locked into particular agencies for long periods of time, what does that do in terms of cohesiveness of the services? What does it do in terms of building the skills base? What does it do in providing future leadership, for example, at the department head level within the service itself? There are a lot of questions. I am cognisant of the time, so I am trying to give you the opportunity to answer them in a collective way.

Mr Kennedy—Could I give you some information on the facts as we have been able to determine them so far?

Senator WATSON—While you are collecting this, Mr Kennedy, I would like to comment on the very good graphs and visual presentations you have given to us. They have been most helpful to us.

Mr Kennedy—I think you must thank the secretariat who identified some possible areas of issues.

Senator WATSON—Very perceptive.

Mr Kennedy—I will start with the one that is headed ‘APS permanent Staff: Mobility rates’. That is an attempt to measure by percentage the people moving from agencies by either transfer or promotion. So it does not say anything about mobility within a large agency. But if you look at the green line, which deals with large agencies of 250-plus, you can see that the mobility does not seem to have changed very much over that period. If you look at the pink line, which is for small agencies, as you might expect, that is up and down more, but it is a bit hard to tell whether we are now seeing a level which is lower than it might have been in 1989-90. So mobility from large agencies does not seem to have changed very much in that 10-year period; for small agencies it moves about and it is much harder to see a trend line. On the other table, the red line shows SES mobility. Again, that seems to—

Senator WATSON—Can you describe that as the diamond line, because I would like to incorporate this in *Hansard* and the colours will not come out, but the differentiation between the diamonds and the squares may come out.

Mr Kennedy—The diamond line is for the SES staff. You can see that that varies considerably in a given year—not surprisingly because they are smaller numbers—but it seems to be in a roughly four per cent to six per cent band; whereas for non-SES where we have got larger numbers, except for 1996-97—and we have no explanation for that—the squares are in the three per cent and four per cent band. So if the new employment arrangements are impacting on mobility, we are not picking it up yet. But there is one other caution I should make: we have only been able to analyse the data for 10 years and we do not know whether what we are showing you, when analysed back further, would be different. We want to analyse the data further back but it is quite a large exercise because of the disappearance of the CRP. So that is what it is looking like at the moment.

I think we would be worried if mobility rates went down. There is a fine balance in the service between having people who have got good corporate memories and having people, particularly at management levels, or people who are working at an interagency level, who actually understand the viewpoints of different agencies. One of the reasons why we try to promote some of our training courses is to say to people, ‘It’s important that your staff get the opportunity to train and meet with staff in other agencies because that actually helps the cohesion of the service.’ Probably the quickest answer is to say that this is an issue we are watching; we are not quite sure where the trends are going. But if the cohesion started to fall apart, particularly at the senior levels, I think that would be of concern for governance.

Senator WATSON—Can we incorporate that in *Hansard* to enable people to follow the presentation?

CHAIR—Yes.

Mr Kennedy—I understand Mr Blunn will be speaking to you this morning. He might be able to give some further views on that from a portfolio secretary’s perspective. I am slightly embarrassed in that I have another commitment I could not change. I would be happy to come back this afternoon, if that was the wish of the committee.

CHAIR—No, I do not think that will be necessary, Mr Kennedy. I make the point that the 1996-97 figures for mobility rates may well be a reflection that, at the time of the change of government in 1996, for a period of about 12 months there was a significant shifting around within the—

Mr Kennedy—We have tried to take out all machinery of government changes. But I cannot be confident that we have succeeded, because when we were preparing this data earlier this week, we discovered that there had been some miscoding and we had to rework the data to take that out. We will be having another look at that particular year to see if we can work out whether there are any special reasons for that as well.

CHAIR—Thank you very much, Mr Kennedy. We appreciate your contribution this morning and the material that you have provided. At a later date we might ask you to come back on some

of these issues as we move through further hearings. For the purposes of the *Hansard*, I identify those two documents to be incorporated. One is headed ‘APS permanent staff: Mobility rates—large agency and small agency’, and the second one is headed ‘APS permanent staff: Mobility rates—SES and non-SES’. Is it the wish of the committee that the documents be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The documents read as follows—

[10.00 a.m.]

BLUNN, Mr Anthony Stuart (Private capacity)

CHAIR—Welcome, Mr Blunn. Would you like to make an opening statement?

Mr Blunn—No. Hopefully, I can serve the committee best by answering its questions.

CHAIR—You have been here and heard the discussion we have had with Mr Kennedy from the Public Service Commission. Perhaps we could start the discussion—

Senator WATSON—Mr Blunn might like to comment on some of the matters raised by the previous witness.

CHAIR—I was just about to say to him that perhaps we could start with this issue of cohesion and mobility, the aging process and the values. You might like to comment on that.

Mr Blunn—Mr Kennedy used the word ‘anecdotal.’ Allow me to assure you, much of my evidence to the committee will be anecdotal. There is a question about cohesion that runs through my mind. There seems to be a perception that the Public Service has been a very a cohesive body and suddenly it has become less cohesive. I think that needs to be tested a little. I am not sure that the Public Service has always been, hitherto, a cohesive body. I think there have been some things which have been strong in creating a sense of identity for the Public Service and for public servants and that some of those are changing and have changed significantly and, indeed, have gone. For example—and perhaps I am talking from my own experience here—I think certainly pay was not a major factor in attracting people to the Public Service. It is, I think, more true that people believe that they were given an opportunity to do interesting work which helped the community and was important and was in an exciting environment. Perhaps a lot of people do not understand that, but the Public Service is a very exciting place to work.

I think with a number of things that have happened like outsourcing, some of those things are changing. I certainly think we have moved away from the concept of office and officer to a point where I think some of those identification issues are in question. Cohesion used to be achieved in the Public Service significantly by a very small group of departmental heads exercising what could almost be described as autocratic power. I think back to the days of the Permanent Heads Committee and the senior salaries committee of the Public Service which consisted of the chairman of the Public Service Board, the head of the Prime Minister’s department and the head of the Treasury. I am back now in the days of Sir Frederick Wheeler. That was a very powerful body and it achieved a lot of cohesion, but it was done quite autocratically and authoritatively across the service. Certainly, those things have changed.

But then society has changed dramatically. The Public Service is changing with society and is attempting to come to grips with those changes in society. It is a painful process. Yes, you could say that there has been some lessening of the sense of the identity of the Public Service and a focus more on individual departments in very recent times. But that is a combination of factors.

CHAIR—The APS values, I presume, have not changed all that much from your time. Do you think they are still relevant to the service today? Do they still hold the same relevancy as they did, perhaps, when you were active in the service?

Mr Blunn—I have only been out for six months.

CHAIR—A lot can happen in six months.

Mr Blunn—A lot has happened in six months, which is why I am slightly nervous about talking about some of these things.

Senator WATSON—You are protected by parliamentary privilege.

Mr Blunn—I hope that will not be necessary. Quite frankly, we deliberately set out to achieve those values and those standards of conduct, in part, I think, to address some of the sorts of vague things I was talking about earlier, to give that sense of identity to the Public Service, to create the common elements. I think a number of us, at least, believed that it was important that there was a sense of common purpose throughout the Public Service, and that that needed to be addressed. I was reading some of the evidence given to the committee, where a lot of emphasis was placed on performance pay. Some of your academic witnesses were making statements like, ‘If that is solely the thing that is happening,’ when of course it is not solely the thing that is happening at all. A lot of things are happening in the Public Service. Performance pay is one. There are a lot of things coming together. The code of conduct was certainly an effort on the part of a number, but focused clearly on the Public Service Commission and its role to achieve something around which people could focus and identify.

CHAIR—Do you think performance pay has been a negative or a positive?

Mr Blunn—When I was listening to the evidence given before, there seemed to be a perception coming through from the committee that performance pay would actually stop people from being moved around the Public Service. Speaking as a departmental head, let me tell you all it did was raise the ante, what I was prepared to pay for a person. You do not actually recruit a person that you want and tell them they have got to go back to a basic salary. You negotiate with them before you take them on what is the salary they are prepared to come and work for you at. In my view, it tends to lift the salaries in the Public Service.

CHAIR—Across the board?

Mr Blunn—For, particularly, people who are in demand. The most recent example of that I can think of would be the chief financial officer role, which has become extremely significant because of accrual accounting—but a number of other things. Those people, I think, are becoming quite an expensive item in the Public Service. I am not saying that is not proper; I am just saying it is happening.

CHAIR—Yes, I understand that. What impact do you think performance pay has on morale within the departments?

Mr Blunn—I think the way it has been done has had downsides in terms of morale. If I can answer that a little more generally to start with: I think the capacity to determine salaries for particular skills and for particular people is no bad thing in terms of running a department. That has got to be a good thing. I think back to when I had Construction many years ago and we had to promote engineers or architects into general administrative jobs in order to get them classifications. That was silly, and we moved away from that. We have tried a number of things, of which this is just the latest. I think one of the things that are important to that sort of broad concept of public service is the fact that transparency of conditions of service is not an unimportant factor, if there is to be a public service recognised as such. I think there is a great deal of distrust in a number of areas about that. That is something the Public Service is going to have to grapple with. It is going to have to recognise that and deal with it, and a lot of the things that have been put to the committee are very sensible ways of dealing with that. But we are in a formative stage. Good heavens, 20 years ago society was very different. The Public Service had a monopoly in a lot of areas that it just does not have now, and it has got to come to grips with that.

Senator WATSON—We are concerned about disadvantaged groups, particularly, say, physically disadvantaged people. Don't you think there is a commitment on the part of the Commonwealth, for example, to try and have a deliberate policy to lift employment of physically handicapped people, providing they can speak fluently, in call centres? That is a fairly new area of employment where I would have thought that the physically disadvantaged would have a great opportunity of finding very satisfying employment and whereby the Commonwealth could show its commitment to these people, because it does appear that with devolvement and outsourcing they are losing job opportunities.

Mr Blunn—Certainly it is an area where you can use some people with limited abilities in some characteristics. That has been recognised. I think I am right in saying that it is an issue for Centrelink, but certainly when I had Social Security it was an issue and we were looking at how we could do that. So there are special niches like that—and call centres is not just a little niche but a very big niche.

Senator WATSON—A growing niche.

Mr Blunn—Even there, though, in some cases there are costs with that. I am thinking of sight impaired people, for example, who could handle telephone inquiries but, if they needed access to data through the computers, you are talking about special computers and enlarged print and all of those sorts of things. Certainly the cost pressures on running departments are such that it would be fair to say you would look at those sorts of issues carefully, even if your predisposition was to do as much as you could in that area.

Senator WATSON—If you were in our position, how would you advise us to seek to tackle this issue? Do you provide those areas or agencies with top-ups to make sure that they are not going to be disadvantaged in terms of their bottom line? How do we achieve that from a parliamentary respect?

Mr Blunn—Traditionally that is the way it has been done. You have created programs which are designed to achieve government objectives in those sorts of areas: it may be Aboriginal and Torres Strait Islander employment, it may be disability employment, it may be a range of things,

and special programs have been achieved to do that. That was recognised as a role for the Public Service and, as Mr Kennedy said, a lot of the work we used to do was particularly appropriate for some people who had disabilities. That work has largely gone.

Senator WATSON—Apart from top-up payments, can you advise the committee of any other methods of enforcement to raise the level?

Mr Blunn—It has to be a statement of government policy. If you want to achieve those sorts of results, the government has to identify that this is an objective of government policy, that there will be increased employment for people with disabilities, the sight impaired or whatever.

Senator WATSON—That is very helpful. Yes, we might pick that up. Thank you.

CHAIR—Mr Blunn, the issue of accountability is one that has been discussed at a couple of these hearings. There is a concern that the devolution of responsibility to the agencies, combined with performance pay and with promotions within the agencies based on that concept, is impacting upon the degree of accountability of the service to the parliament as distinct from the executive. Whilst recognising there has always been a conflict there, that there has probably always been that tension for as long as we have had governments of this nature and the Public Service, the perception, certainly amongst politicians, is that accountability is diminishing considerably. We had one experience here at an estimates hearing two or three weeks ago where one department took something like 140 or 160 questions on notice, virtually one after another, and the perception was that that was purely on the basis of being protective of the executive that it was serving, rather than being able to provide information that provided accountability to the parliament. What has been your experience in that area? Do you have any views about this issue of accountability?

Mr Blunn—Of accountability generally?

CHAIR—Yes.

Mr Blunn—There are so many facets of accountability. I personally have no problem with the concept of departmental heads being accountable for running their departments. The issue that you raise is this: to whom are they accountable? Dr Hawke in his evidence to you referred to the MAB/MIAC exercise on accountability. I was on the Management Advisory Board at the time and there was fairly heated debate about that report. Originally it gave no recognition at all to the role of the parliament in the accountability of public servants, nor did it pay very much attention to accountability to, say, the Auditor-General. Whilst it is true that public servants are accountable to the executive government, and no-one else in the sense of an employer/employee relationship, a number of us argued that that was a simplistic approach and there were other accountabilities. The trick is to get those accountabilities balanced correctly. That is becoming more difficult because the parliament itself, in my opinion, has, through estimates committees, become much more political than it used to be. A lot more of the questions have a political flavour or bias—and I do not mean that in a pejorative sense—than simply the seeking of information about the operations of the department.

Yes, you are right: a number of departments and departmental heads are becoming more concerned about some of those sorts of issues. Of course, because things are a lot more

complicated—genuinely—managing very significant outsourcing contracts is a skill which the public service does not have in great quantity. Just managing those sorts of situations is exposing. There is a lot more uncertainty in a number of areas. If those are areas that are being pursued then a prudent public servant may well wish to take some of those on notice. I may be presumptuous, but the committees could help a lot with that themselves. As a departmental head, I always offered pre-briefing, with the approval of my minister, to committees or groups within committees if they wished that. I can think of only two occasions in 20-odd years as a departmental head when that was taken up. I understand why it was not taken up. Sometimes you do not want to know the answer before you go into a committee. The fact is it leaves the exploration of a lot of very detailed issues for the ebb and flow of the estimates questioning.

CHAIR—My experience, and I have been here only three years—is that you tend to get offered those briefings after you put the department personnel in some difficulty in providing answers, rather than them being offered up front.

Mr Blunn—That too. There are a number of ways that one could look at the problem. There might be productive ways of dealing with it. One of them would be to get a lot of the dross out of the way or at least expose the sorts of issues you are interested in. But, of course, it gives the department a chance to prepare, and a prepared answer is perhaps not what is wanted.

CHAIR—That is true.

Senator WATSON—That is a reflection on the parliament and the committees.

Mr Blunn—I certainly did not intend it to be that.

Senator WATSON—It is a reflection on us. It is an interesting observation.

Mr Blunn—It is only an observation.

Senator WATSON—You mentioned that departmental heads are trying to grapple with this problem of accountability. To whom? To the executive, the Auditor-General, the parliament or parliamentary committees? Could you tease that out a bit?

Mr Blunn—If I left you with the impression that departments are worried by it, I do not think that is true. I think most of us understand that our responsibility is to the elected government.

Senator WATSON—But underneath that?

Mr Blunn—Exactly. Underneath, I suppose most of them would say there is a responsibility for assisting with the smooth running of the mechanisms of government of which this parliament is hugely important. Therefore, I think most of us take our responsibilities to assist the parliament pretty seriously. Certainly, I did. In that context we do seek to try and help the parliament.

In terms of the Auditor-General, all I was really saying was that there are a number of those mechanisms underneath the strict employment and the strict accountability regime that reside

between the executive and the Public Service as part of the executive, They have to be recognised and public servants have to deal with them. I was really commenting on the fact that, as the Chair put it, there was this perceived diminishing in the accountability of public servants to the parliament. Technically, the public servant owes no greater accountability to parliament than any citizen does. They are just a citizen. There is no special relationship except, in my judgment, in the fact that because of their position and role they are the repository of a lot of knowledge and data and entrusted with the expenditure of significant public moneys which is a proper matter. All of those things are proper things for public servants to try and assist the parliament with. That is what I was trying to say.

Senator WATSON—In recent times, we have made the Auditor-General basically an officer of the parliament. He has special links with the Joint Committee on Public Accounts and Audit. Do you see his role changing or has it changed perceptibly in recent years? Do you think he has the adequacy of resources to fully discharge those responsibilities?

Mr Blunn—As to whether his role has changed, it depends on how old you are and a few years. His role has certainly changed. There has been a significant progression in terms of the sort of work that the Auditor-General does from simple flick and tick auditing, which used to be almost the standard at one stage, through performance auditing into a much wider role now. There has been a shift in the role of the Auditor-General. That is reflective of the fact that the Public Service—and society generally—has changed significantly in the way it does things and wants things to be done. The Auditor-General has reflected those sorts of changes. Has he got the staff and the skills to carry that out? I believe he has.

I think this Auditor-General has made significant advances in the area of acceptance of the skills of staff and the role that he is performing in the Public Service and for the parliament. It will go on changing. What has to be achieved is a different sort of relationship between departments and the Auditor-General. That is happening. There is a much greater perception of a partnership now in terms of the value of audit and the sort of work that the Auditor-General is doing in his role than there previously was. It was seen as a sort of external policeman coming in to flick and tick audit. There is no doubt about the independence of the Auditor-General. Let me make that quite clear. We all understand his independence and we all understand that, if we have it wrong, then he will probably find that out. Most of us think that is probably a good thing. If we have got it wrong, it ought to be found out, and we ought to fix it.

Senator WATSON—What about other external evaluating agencies?

Mr Blunn—Do you mean like the Ombudsman?

Senator WATSON—Yes.

Mr Blunn—All of those agencies have a very special role to play—and I keep coming back to this—because society has become a lot more complicated. With respect to the sorts of things the Ombudsman now does, 30 years ago you would not have even contemplated them. I can remember class 6 clerks in the then Department of the Interior who had powers to make decisions that affected people's lives that nobody would ever have challenged. That was not a good thing. These mechanisms are reflective of the fact that society has changed. Society is much more demanding, much less accepting of those sorts of authorities than it used to be;

therefore we have had to create the sorts of mechanisms to reflect that change. I think they have worked pretty well. I used to get very irritated with the Ombudsman from time to time, but overall I think it has been a very good mechanism and it is part of our accountability framework.

Senator WATSON—So you think it is more accountable nowadays—more transparent?

Mr Blunn—The Public Service?

Senator WATSON—Yes.

Mr Blunn—Yes, definitely. It is more examinable and more accountable in that sense.

CHAIR—Thank you very much for appearing this morning. It has been invaluable.

Proceedings suspended from 10.26 a.m. to 10.53 a.m.

BRENT, Mr Ronald Ian, Director, ScreenSound Australia, The National Film and Sound Archive

McLEOD, Mr Ron, Commonwealth Ombudsman

PENFOLD, Ms Hilary Ruth, First Parliamentary Counsel, Office of Parliamentary Counsel

CHAIR—Welcome. I invite each of you to make an opening statement describing the experience of your agency in a devolved APS environment. The committee will then proceed to questions.

Mr McLeod—By way of introduction, I think in the last four years we have witnessed an extremely extensive process of administrative change in the Commonwealth sector. I have been a professional public servant now for over 40 years and, while in the past there have been some significant changes, I think the pace and the extent of the changes that have occurred over the last few years have been really unparalleled in my experience.

As far as agencies are concerned, in the three major areas of administration—financial management, personnel management and industrial relations—there have been extremely significant changes that I am sure the committee is aware of. These changes have occurred at a time when staff numbers have been dropping significantly, financial resources have been tightly controlled by government and the delivery of a good deal of internal administrative support and a considerable amount of government services have been transferred to the private sector for service delivery. Those changes, taken together, have been extremely difficult for large agencies to plan for and absorb. They have created particular challenges for small agencies.

It is probably understandable that the government and the central coordinating agencies who are driving the change process have often been reluctant to make exceptions for small agencies because the changes have often represented important elements of the government's overall reform program. As a consequence, there has often been a one-size-fits-all approach to the implementation of change which can impact particularly heavily on a small agency, which often does not have the specialist staff to help the agency to manage change. It can also create difficult demands on limited resources that are often available in a small agency.

I will say a few words about my own agency. We exist to help citizens who are experiencing difficulties in their dealings with Commonwealth department and agencies. We also have a role in helping to identify systemic weaknesses in the administrative processes. We have a role in contributing to improving the efficiency of public administration overall. As an office, we employ something like 82 full-time staff. We have an office in each capital city of Australia. We receive something like 35,000 approaches a year from members of the public seeking assistance. Not all of those approaches turn out to be actual complaints against Commonwealth agencies. Of those approaches, something like 22,000 or 23,000 real complaints do emerge each year.

We have a budget of \$8½ million. I have a deputy who, like me, is a statutory appointee. My legislation provides that I can have up to three deputies. The office has had that many in the past but at the moment we only have one. I have four Senior Executive Service officers who assist me in the conduct of our investigations. Those people head the major investigating teams that are centred in Sydney, Melbourne and Canberra. The SES staff work under workplace agreements which I have negotiated in each case. The staff generally in the office are employed under a two-year certified agreement which is due to expire at the end of September. At the moment we are in discussion regarding a new agreement. The major administrative challenge of the office really centres around our continuing ability to be able to fund within our budget the cost of future industrial agreements. I have a table which I would like to make available to the committee.

Senator WATSON—Is that cost concern just in terms of developing your own industrial agreement or arising from other industrial agreements?

Mr McLeod—Just in terms of being able to fund the cost of salary increases that I would envisage would need to be included in future agreements for my own office.

Senator WATSON—It is purely internal.

Mr McLeod—On that cover sheet I have provided to you I have set out in very simple terms a snapshot of the staffing and the financial resources of the office as at the end of this current financial year and as at the end of June 1996. You will see at a glance in the pie charts at the bottom of the table the particular impact of portfolio budget savings coupled with the obligation we all have in the Commonwealth area to fund salary increases associated with staff agreements from within our existing budgets without supplementation. In my small office, the first round of agreements, coupled with portfolio budget savings, has had a fairly significant impact on the changed proportion of expenditure between staff costs and other non-staff related running costs, to the point that the non-staff related revenue that I have available—which is genuinely discretionary in how I decide to apply it— has almost halved down to about six per cent of my budget.

It does not take too much to see that, unless there is a change in the current arrangements in the future, the only way in which I would be able to ensure that under my industrial agreements the competitiveness of the pay rates and conditions of employment in my office are kept in reasonable balance with the rest of the Public Service will be at the expense of reducing my staff further and, in turn, cutting back in the quality of the service that I am able to deliver under current arrangements.

CHAIR—I understand what you are saying. It is exactly the same response I got from Ted Evans, the secretary of Treasury when he gave evidence. I asked him directly whether the impact of performance pay on the Treasury was that one person's performance pay was another person's job and he said 'yes'. I think that is what you are saying about your department.

Mr McLeod—Unfortunately, that is the reality—particularly with a small agency. The opportunity to improve the efficiency of your organisation and to capture real dollar savings declines after a period when we have been working for a long time to make our organisations as efficient as we can possibly make them. There comes a point where the opportunities for

further savings become very difficult to identify. In a large agency with a very big budget and a wide range of activities, there is always more opportunity and flexibility in being able to find opportunities to identify savings. I came from 14 years as a deputy secretary looking after the budget in the Department of Defence. We went through a succession of budgetary restraint exercises. We could always find ways and means to cut back on something to deliver savings to help to increase costs in another area of the budget, because it is such a large budget. In a small organisation, those opportunities are extremely limited.

The other point is that most medium-sized to large government agencies have, built within their budgets, program items where the parliament appropriates funding for particular specified program activity. There is scope in those departments to meet some of the administrative costs of managing those programs from within the allocation of program funds made available for that purpose. A small agency like mine does not have any separate program items, so that all of the funding that we receive is really to support our ongoing activity. There is just not the same opportunity to draw on some of these program funds which do provide a greater level of flexibility to a larger agency.

Senator WATSON—So you have a lower level of staffing, of about 15 compared with 96, you have lower appropriated revenue and you have a higher number of complaints.

Mr McLeod—Yes.

Senator WATSON—Have you done an external evaluation of your performance in terms of customer satisfaction?

Mr McLeod—Last week we completed a customer satisfaction survey, which we have not undertaken for the last three years—the previous one was three years ago. We had a commercial market research organisation undertake that survey for us. We are likely to get our results next week, so we are looking forward to seeing what that might reveal in terms of customer satisfaction with the service we provide. I guess it will remain to be seen what comes out of that, but it is one way of being able to test how the marketplace responds to the quality of the service that we have been providing. As I understand it, the firm was able to approach in excess of 3,000 people who had formally approached our office and who had received some service from the office, so it is a reasonably sized sample.

CHAIR—Had you completed your opening remarks, Mr McLeod?

Mr McLeod—Yes, I had. I could go on, but I realise that your time is not unlimited. In deference to my colleagues I am sure they can put their own story forth.

CHAIR—Perhaps Ms Penfold or Mr Brent can have a few moments to outline their opening remarks and then we can come back to some questions of all three of you.

Ms Penfold—I do not have very lengthy opening remarks that I want to make. I would agree with a lot of what Ron has said about the effects on small agencies of the major developments in the Public Service in the areas of financial management, Public Service matters in general and workplace relations. The most noticeable effect in my agency has, as Ron suggested, been a

major strain on resources just to absorb and deal with the requirements of all those changes. Like Ron, we have a very small corporate services area.

Perhaps I should give you a very brief description of my organisation. Our function, as you would know, is to draft bills for the parliament. We have about 45 staff, of whom roughly 30 are lawyers who do the drafting work. Then we have about eight executive assistants, which is possibly a higher proportion than a lot of agencies but, as you would imagine, we produce an enormous amount of written material—far too much, some people might think—and that material needs a fair bit of quality control in a variety of ways, so we do have a reasonably high ratio of executive assistants. We have another eight or so people who do corporate services and IT work. In fact, within that group, there is a reasonable amount of work concerned not so much with supporting the agency as supporting the work of the drafting officers in getting bills finalised, printed and over to the parliament. So the real corporate services area in the office probably consists of three or four people, none of whom is at a particularly high level, partly, perhaps, because in the old days there was not a great call for high level work in that area and also because it is not terribly easy to get good corporate services people in such a small and uninviting agency. There is not a big career path; you are not going to do a lot of work that will look terrific on your resume for the next promotion.

The options we have had for dealing with the massive changes in the last few years have been either that senior professional drafting staff get more involved in some of this work or that we buy in the expertise through consultants of one sort or another, whether they are genuinely external or whether they are people from, for instance, the Department of Employment, Workplace Relations and Small Business. We have tried that in a number of areas, and occasionally it works satisfactorily.

More often than not it does not seem to work all that well, and we have found ourselves basically paying people a lot of money to listen to us explain how the office works and what all the problems are and, in effect, come up with the solutions. The consultants go away, write it all down and give it back to us. That is not an unusual experience with consultants. But in a sense, the more peculiar or unusual your organisation, the more the organisation has to put into briefing the consultants, if you like. For instance, when we were working on our agency agreement a couple of years ago we bought in as much expertise as we possibly could from Workplace Relations, but we found ourselves still putting an awful lot of effort—and a lot of effort at senior levels—into adapting what they could give us to the particular organisation that we have. They are the strains we have noticed.

Having said that, I should say that there is no doubt that there have been benefits flowing from some of the devolution and the freeing up of centralised controls. Probably from our perspective, the greatest improvements have come from our being able to move ourselves out of the assistance of the Attorney-General's Department. Until about 10 years ago, basically, our corporate services were handled by the Attorney-General's Department. They ran our budget and all sorts of other things for us. There is no doubt that we finished up fairly badly at the bottom of the pecking order in those days. The only way anyone ever got a new desk was when one of the senior staff in the department decided he wanted a new desk, and so we got a second-hand desk.

CHAIR—It is a bit like when I was growing up in Belfast: sometimes the shoes fitted and sometimes they did not!

Ms Penfold—If there were not so many bombs, I would have to say that. We have definitely got benefits from taking over that responsibility. In some areas there is a question about how the benefits balance out with the redirection of senior resources, but that is one of those things that gets better and becomes easier the second time you do it and so on. Do you want me to speak generally about what we do with respect to performance pay?

CHAIR—If you want to make any opening comments about it, but we can come back to it.

Senator WATSON—Particularly if you have problems.

Ms Penfold—I would not say that we have problems now because, in fact, we do not have performance pay.

Senator WATSON—Do you anticipate problems, though?

Ms Penfold—In 1996 we abandoned performance pay for our senior officers who are, by and large, lawyers training as legislative drafters. We abandoned it for the SES in 1999, when we did our first certified agreement. I can go into more detail on that or I am happy to wait and deal with questions.

CHAIR—Perhaps you could outline to us what motivated you to abandon the process.

Ms Penfold—The main thing that motivated us to abandon it—probably in both cases, but it operated slightly differently in each case—was that there did not seem to be any evidence at all that the existence of performance pay was motivating people to work harder or better or whatever. On the other hand, there was quite a bit of evidence that the existence of performance pay was tainting the performance management processes in a couple of ways. Let me first explain the structure.

The 28 lawyers that we have are roughly half and half divided between SES and non-SES, although two of the SES people are statutory officers. There are roughly even numbers. The SES lawyers are people whom we would regard as trained legislative drafters. We acquire our trained legislative drafters by recruiting lawyers fairly young and training them over an extended period—a minimum of about five years for a new recruit to reach a level at which they could function as an SES officer, and often quite a few more years than that. There is quite a large group of trainees and they are supervised by an equally large group of trained drafters.

It is very important to us and to the trainees for them to have a clear view of how they are going, how their development is proceeding and whether they are going to turn into legislative drafters in the end. It is not something that everyone is good at and it is not something that you can really assess people for before they come into the office because there is nothing quite like it in private practice or at law school. You can look at certain things and say that one person is more likely than another person to make it, but it does not always work. If people are not going to make it we need to know early and they need to know early—before we all put a lot of time

and resources into something that is not going to work out. Even the ones who do have the aptitude need to recognise how much development they need.

One of the things that was emerging when we did have performance pay for people at that level was that their supervisors were reluctant to give bad numbers. They were even, by and large, reluctant to give numbers that represented satisfactory if the person in the next office was handing out numbers that represented superior performance, and it did not seem to matter how much detailed discussion and feedback went on—and I would not assert that that was always perfect either—if people got a number that looked pretty good at the end of the performance appraisal.

What was happening was that there were people who really were not being told the truth about their development and their prospects and who, even if they were being told a bit of the truth, were blocking it out because they still had a four beside their name and a share of the performance pay. One way you can deal with that is say that the supervisors have to be a bit tougher, a bit more rigorous, about the numbers they give out. There were a couple of difficulties with that. One was just human nature—for most people it is easier to give someone a good rating than a bad rating.

Another one is that they do not have scope for comparing each time they do an appraisal. If you are a supervisor with four staff, it is relatively easy to say, 'Here is a ranking; this person is better than that person.' If you are only supervising one person, and you have 10 people each giving a rating on one of 10 people, it becomes very difficult to put them in any sort of order in a fair way. That was part of the pressure on the individual supervisors to make sure that they gave a good rating.

The other small problem that created was that, as part of the training approach, we moved the trainee drafters around. They would only work for a particular senior drafter for one or maybe two years at a time. It is certainly best for their development if they have experience working with as many different senior drafters as possible. That also means that you do not want a situation where certain supervisors are regarded as far more rigorous in their appraisal than others if that gets you to a point where those people are unattractive to work for. There is a fair bit of scope in the Public Service for telling people what they are going to do and who they are going to work for. If I were in the business of getting the job done, I would have to think very hard about creating teams of people who did not like each other. For those reasons, most of which I suspect are not completely peculiar to my organisation but which may have been exacerbated by the structure, we decided that performance pay for the non-SES lawyers was a lot more trouble than it was worth.

With the senior drafters, the tainting of the process was slightly different. I am the one who appraises all of them. That, in itself, has problems, as you might imagine, in trying to give useful appraisals to 10 or so people when you do not supervise them very closely. I cannot closely supervise all the legislation produced by 10 people. Indeed, by the time they are SES drafters they are supposed to be able to do that by themselves, and not have someone looking over their shoulder. I suppose this probably exists everywhere in the public sector, but perhaps especially when you are dealing with a group of lawyers, there is an interest in fairness, and procedural fairness in particular, and evidence of objectivity and so on. I found myself putting a lot more effort in the appraisal process into producing a defensible set of figures to explain why

some people were getting performance pay and some people were not, even though everyone was working very well. It seemed to me that it really was not contributing to the organisation at all. There was no evidence that it was actually motivating people to work harder or better.

CHAIR—Thank you, Ms Penfold.

Mr Brent—I will start with a very brief overview of our organisation and then touch on some of the issues that have already been covered as they apply to my organisation. We have about 200 staff. We have a collection of about 1.5 million items and seven properties spread across Canberra, Sydney and Melbourne. We have an annual budget of about \$27 million a year plus a capital use charge of about \$21 million a year. Until four months ago, I had only one other deputy SES officer in the organisation, and we had to run our organisation as a fully independent organisation.

The impact of the changes that Ron McLeod was talking about earlier across government as a whole have been very substantial on our organisation, very much as it has been on the other two organisations. That is not just those reforms that are the subject of this hearing, but all the reforms, ranging from financial administration through to property administration, accountability reforms and reporting reforms right through to the reforms in personnel management and staffing arrangements.

At the same time, many of those reforms have provided us with substantial opportunities for improved performance. I would single out as an example the reformed property arrangements where we are now much more independently responsible for our property, with complete discretion about what we use, do not use, lease or do not lease, and that has given us substantial opportunity to deliver savings that we have then been able to put back into the organisation. On the other hand, in some of the areas—I would single out here in particular, as one of the areas that this committee will cover, certified agreement negotiations and the independence we have in negotiating pay and employment conditions—there has been a very substantial up-front burden that has drained our resources significantly and the gains that we are able to make are in many ways quite limited. Many of them we might not see the benefits of for some time, so the experience has been more equivocal. As Ron McLeod mentioned, it is the problem of one size fits all. Many of the arrangements will work well for larger organisations, but carry with them a lot of diseconomies of scale, if I can use that term, for small agencies.

Perhaps I can turn to some of those specific problems. Certainly resource implication is a clear one. The difference between negotiating a certified agreement for 200 staff or 80-odd staff or 2,000 is not all that great. The range of conditions that have to be addressed, the concerns of staff and the starting positions from the unions and from staff are all likely to be very similar across the agencies, yet we have a much smaller pool of people on whom to draw to provide the resources for the negotiation, writing up of minutes, providing of information bulletins, running of staff meetings and so on. Added to that we have a smaller pool of resources in which to find the expertise that can actually do those things really well. At the same time, the gains for the organisation are proportionately smaller, simply because we are talking about less staff and any gains that can be made have to be delivered by a smaller number of people. It is simple arithmetic. If we can gain X per cent from 200 staff, it is a smaller total figure than X per cent from 2,000 staff, yet that same saving has to fund all of that negotiation process.

As a result, we have used networking across the Public Service substantially but that is as much a handicap at times as it is a benefit in that the organisation is constrained very heavily by what other organisations are doing. The ground rules are set very heavily by the large organisations and if the average pay increase in a particular round is three per cent a year, our scope for moving significantly above or below that is extremely limited. Secondly, if the standard conditions are varied in a particular way, it is pretty well expected that we will be able to deliver the same benefits, the same changes or the same gains from our organisation and yet we have to run the negotiation entirely separately. Having said that, we have had good support from other agencies and certainly there has been a real effort to provide the support to make it work for our organisation.

Again I would endorse the comments made earlier about the much smaller flexibility for providing productivity gains or resource gains in a small agency. There are just simply less items that can be shuffled around. Taking a small percentage off the top of everything becomes a smaller absolute figure to fund the infrastructure and the resources as well as any salary gains.

I would also say there are particular circumstances that I think apply to many small agencies and perhaps to large agencies that work against some of the current opportunities. For instance, the opportunity to provide productivity pay increases to staff in return for productivity gains is much less in my organisation because my organisation is a bunch of very committed people who have delivered very substantial productivity gains over recent years, well documented in our annual and parliamentary reporting. That was prior to having any direct trade-off for salary increases. That reduces the further opportunities for productivity gains to pay for salary increases. It also reduces my flexibility in being able to come to staff with proposals that have not already been put to them that we could initiate for potential gains. In other words, we are in many ways handicapped by the enthusiasm and commitment of staff in fully exploiting some of the flexibilities to reward staff that we now have. That flows through to performance pay where I very much endorse Hilary's comments. The principles that she has related in relation to her organisation apply to ours. The circumstance is quite different because of the ratios of senior and junior staff, but the principles are the same.

The fundamental concern we have is the one that Hilary mentioned, which is the conflict between performance improvement through performance appraisal, and performance pay through performance appraisal. They are entirely separate and conflicting concepts. One is to look backwards at past performance and reward outcomes, whilst the other is to look forward at future performance and improve that performance. One requires therefore an approach that has to do with injecting into the discussion opportunities for improvement, and the other has to do with assessing outputs, outcomes and results. That essentially did not work in our organisation at all.

Layer onto that the problem we have with our teams based approach. For instance, we have a printing and processing lab whose job it is to copy nitrate film onto modern film so that the content of the film can survive. It is a team of about seven or eight people who work together as a team and who work across all the skill groups within the functioning laboratory. Recently, we have seen substantial productivity improvements out of that facility, as we have across the organisation.

The result of that is that if we are to apply performance pay we would be going to the manager of the team and saying, 'Good result. Here is some extra money.' I can think of nothing that is more likely to demotivate that team than to see the manager rewarded for their contributions in improving the results of that team and no access to rewards for themselves, particularly when the improvement came not out of a desire for extra money, but out of a commitment to the work they were doing and a desire to help us meet the challenge of having to copy 12 million feet of nitrate film. For that reason we have moved away from performance pay and we no longer use it in the organisation.

We do use AWAs for the SES officers, for the two and now three SES officers that we have, but interestingly enough the capacity for negotiating individual outcomes for those two officers is very limited. If the certified agreement provides a three per cent pay increase to all other staff, I would not dream of trying to negotiate a higher increase for myself or my deputy. I would consider that that would be enormously demotivating to a very committed team of workers that I have got at the archive. In fact, our AWAs mirror very closely the certified agreement results, except in relation to those matters that are peculiar to the remuneration of the SES officers. There is very little scope for using the flexibility of an AWA in an organisation like mine, particularly where, essentially, two SES officers would determine our own conditions at the expense of other staff if we provide any greater benefits to ourselves. Many of the opportunities just do not work in a small organisation where there are very direct trade-offs between the money you spend here and the money you spend there, where there are not those flexibilities in a large volume that would soak up a lot of those sorts of direct relationships.

Having said all of that, I would nevertheless say that there are opportunities that we are exploiting and that we are keen to continue to exploit. I think it is simply a matter of a different balance in small agencies between the potential gains and the immediate costs. Certainly there is the opportunity to look at revised shiftwork arrangements, overtime arrangements, and to restructure the way that sick leave is taken. That does enable us to respond to some of the peculiarities of our organisation such as the much more out of hours shiftwork by very junior staff that our organisation would have as against other organisations that are more in the mainstream of the Public Service where overtime is more generally limited to the more senior staff, and the regular use of shiftwork to run equipment that has a high capital cost and therefore where we can make gains by running that equipment for more hours in the day. Those sorts of gains are very real. It is just a very real problem right now to balance those often long-term gains with the immediate pressures from the new arrangements. That is probably all I need to say, given what has been said before.

CHAIR—Thank you, Mr Brent.

Senator WATSON—We gather it is a completely different sort of environment in which you are operating. Your perspective is indeed interesting. Do you nowadays see anything really unique and distinct about the Public Service?

Mr Brent—I would certainly leap in and say, yes, absolutely. The first thing I would say is that my staff work where they do because of a real passion about what they do. That is not to say that does not exist in private enterprise. But I would say that an organisation of 200 staff where I would find numerous people every weekend working unpaid overtime at even the most junior levels simply because there is a piece of work they wanted to get finished is an

environment that in an equivalent sized organisation in the private sector it would probably be very hard to see the same sorts of results. We do still attract a lot more people who are doing what they are doing because they believe in it rather than because they want to get paid. I would also say that ultimately the constraints of working in government but also a sense of long-term security—which is perhaps no longer as valid as it used to be but is certainly a sense that staff in my organisation still have—create a different environment from that in the private sector where employment is seen still as more precarious and where the constraints that the organisation runs under are much more directly those of the organisation itself.

As an organisation of 200 in the private sector I would have some legislative and industrial award constraints on my relations with staff, but I would not have the extra overload that I have of very much higher accountability requirements and a very much higher level of scrutiny about the relationship between rewards to staff and benefits that we can deliver against the commitment of government funds. We would certainly have a very much higher level of government intervention in the policy settings within which we operate. For instance, in relation to the constraints on the sorts of outcomes that we can deliver from a certified agreement negotiation we are heavily constrained by government policy. That is by no means either a bad or an improper thing, but it is a distinction that is very marked from an equivalent organisation in the private sector.

Senator WATSON—Do any of the three agencies have non-salary bonuses or rewards other than money for good performance? You have indicated that people are working overtime. No union problems?

Mr Brent—No union problems. Indeed, it is interesting that at one stage when the unions had concern about one of our facilities and threatened to put in a notice because it did not comply with health and safety requirements, when I pointed out that the notice was entirely legitimate and I would have to close the facility their immediate response was to withdraw the notice because they wanted to get the work done and they could not afford to see the facility shut down. It is a very peculiar result, but it reflects a strong association with the unions that has worked to deliver results for the benefit of the organisation as well as staff. I would say that the main non-salary gains that my staff have are the satisfaction and reward of what they do, but we do have very generous and outrageous benefits, such as half a day off once a year to play a game of golf.

CHAIR—Very noteworthy!

Mr Brent—Exactly. Beyond that, nothing.

Senator WATSON—Other non-salary rewards?

Ms Penfold—The position is much the same in my organisation, although we do not have a golf day or even a golf afternoon. There is generally an expectation that people do not have to come back to work after the Christmas party, so that would be our afternoon off. Again, the non-salary rewards are much the same as the ones that Ron mentioned. There is the satisfaction of the job, which is largely an intellectual satisfaction for most of our staff, rather than necessarily related to the content of what they are doing from day to day. The other thing I would put into the list is a degree of belief that they are appreciated both within the organisation

by me and other members of the organisation and by our clients, and also, I would like to think, a feeling that there are other people around who will support them if they need support.

It is what you could call a family-friendly sort of atmosphere, but perhaps it is more human being friendly. I think it is fair to say that the staff in my organisation know that if they have a problem which, let us say, interferes with their ability to get their work done, someone else will cover for them. Somehow we will all pull together and get things done without leaving people to feel that they have somehow failed us. But beyond those sorts of rewards, we have no tangible non-salary benefits.

Senator WATSON—Mr McLeod has given us some evidence of reduced numbers plus increased workloads in terms of complaints, et cetera. Do you find yourself faced with a similar environment, Ms Penfold?

Mr McLeod—I think my—

Senator WATSON—My question was essentially directed to Ms Penfold.

Ms Penfold—I am sorry, I did not pick that up.

Senator WATSON—Mr McLeod gave us some statistical evidence of lower staff numbers dealing with—particularly since 1996—increased complaints, et cetera. Do you find that your workload has increased? Isn't it difficult to have a high level of satisfaction if you are under pressure all the time in terms of meeting deadlines? Is the complexity of the legislation increasing? Can we give some weighting to what is done? It is not just words. Sometimes it is the difficulty in terms of the technical aspects of legislation that requires a lot of skill and effort. In a pressure environment involving meeting deadlines, how do you maintain a high level of job satisfaction?

Ms Penfold—It is certainly true that the demands on us have increased, although, unlike Ron, we have not particularly had a decrease in staff numbers. In fact, I have still got vacant drafting positions that I cannot fill at the moment because I cannot get people who are suitable for them, not because I cannot afford it. But you are right that the pressure on people is increasing, that it has increased over the years and that people are working often under very difficult deadlines. It is also true that sometimes the cracks start showing in terms of our product. I make flippant remarks sometimes about how it would be nice if we had the luxury of reading the stuff that we write before it actually goes into the parliament, and sometimes that is not so flippant. Sometimes it seems that we basically put it down on paper and the next thing we know it is off to the parliament.

CHAIR—We sometimes have a view from this side of the table that we do not get to read it before it gets passed.

Ms Penfold—Indeed. It is also fair to say that, within reason at least, there is still satisfaction to be gained from meeting those challenges. It is horrible while you are in the middle of it, but when you get to the end and you have got a bill and you say, 'Well, here's the bill. I didn't ever think I could do this and no-one else thought I could do it—indeed, probably I shouldn't have, because really this bill could do with another couple of weeks work—but here it is; it is fit to be

introduced; it will satisfy all the demands and once again I've met the deadlines,' I think there is some satisfaction to be gained from that, especially if that task is then appreciated and if the appreciation is made known from a range of people.

The other thing that is relevant is that I put a fair bit of effort into making sure that the demands do not become completely impossible as opposed to just moderately impossible, if you see what I mean. These sittings that we are just coming to the end of have been particularly bad in this respect. There are a number of my staff who have been working under very difficult circumstances to produce bills that really should have taken twice as long as we have been given to produce them. They know that, in the end, if they come to me and say, 'This is completely impossible, the thing is simply not fit to be put into the parliament,' what they will get from me is support rather than criticism and that, if necessary, we will take this further and take it up with whoever we need to take it up with to make sure that the bill does not go into the parliament if it is simply not ready.

Senator WATSON—It does raise the question of quality assurance. Is the quality assurance all in one officer in that he is writing and then evaluating what he does himself? You mentioned it would be nice to read what has been written.

Ms Penfold—One of the elements of having a senior drafter working with a trainee drafter is that, ideally, everything is read by a second person. It is also, in theory, read very carefully by our clients—the people we are drafting it for should be checking every draft that they get and coming back to us with comments.

Senator WATSON—How do you know?

Ms Penfold—How do we know that they do?

Senator WATSON—Yes.

Ms Penfold—You know they do if they come back with comments on it. When they come back and say, 'It all looks fine to us,' then you generally know they have not read it, which is sometimes a worry. We also have a couple of other quality assurance processes. We have an editorial assistant who reads all the bills, not so much for content but for a range of editorial features—clarity of expression and so on. We also have a couple of rather nifty macros on our IT system that can read through a bill and throw up a whole lot of questions about aspects that may be to do with general drafting policy or provisions that need to be included and so on. So there is certainly a range of quality assurance procedures around the actual writer of the bill, but we could always do with more time to think about things.

CHAIR—Can I come back to some of the issues relating to this inquiry. Mr McLeod, both Mr Brent and Ms Penfold indicated that they have abandoned performance pay in their departments. What is the position with performance pay in your department?

Mr McLeod—We still have performance pay in respect of my four SES officers. I listened carefully to my two colleagues in their comments on performance pay and I really heard nothing that I would disagree with. In a small organisation like mine, where the most senior people in the organisation meet regularly to manage and plan the activities of the office as a

whole, we have a very close-knit, intimate executive team, we see our role as working together to achieve the objectives of the organisation and we get our strength from our mutual support for each other. In that sort of environment, the concept of rewarding some of those people who are seen to be performing more strongly than others is a very difficult one. Like Hilary, I have no illusions about performance pay being a motivator; I do not believe it is, at least in my organisation. I think there is still a very strong sense of altruism in much of the public sector. We do not talk very much these days about a career service, but I think it is important to continue to nurture the concept of a career service where people get their buzz or their rewards from a sense of expressing a professional work ethic.

Some of the notions that surround performance pay and their rationalisation are very questionable when they are applied in the public sector. I think they sit more comfortably in some public sector organisations than others. In some which have a very strong business focus and which operate perhaps more akin to a commercial organisation those concepts might be seen to have more validity, and in some of our policy departments there has traditionally been a more elitist culture within those organisations that can embrace concepts of differential pay for performance more easily than in other organisations that have a very strong service delivery orientation, or where a very strong sense of meeting a professional standard of performance is really the driver in terms of how the organisation responds to challenges. In some ways, the suggestion that the imposition of performance pay helps to create a more positive climate is highly questionable.

CHAIR—I am interested in your comments about the general view of the Public Service. I presume all three of you are familiar with the APS values statements. Do you still think those are relevant to today's Public Service?

Mr McLeod—I think they are a fair statement of the contemporary environment in public administration. I do not have any quarrel with those. But I guess the practice is really what is important, rather than the rhetoric.

CHAIR—I suppose the question I am really asking is: do you see the trends that are occurring in the Public Service in practice moving away from the values, or are the values still pretty much guiding the way in which the service is functioning?

Mr McLeod—I think the expression of those sorts of values in the new Public Service Act is seeking to provide a protection such that, in a time of great change, some of those important underlying values are not lost. To that extent, that approach is to be applauded.

CHAIR—Are the pay scales that are offered in your smaller agencies through your certified agreements or pay arrangements comparable with those in the larger agencies, or are you struggling to keep up in terms of your capacity to offer—

Mr McLeod—At best, we see ourselves as placed in about the middle of the field. We would have no hope of being able to compete with the higher paid agencies, because we just would not be able to find the resources to be able to fund that level of increase. So we have got a modest expectation as to the level where we set our pay rates. But small agencies have always suffered in being able to attract good quality staff because they cannot offer the same opportunities for professional development and the same career advancement opportunities that bigger agencies

offer. I think that remains with us but it has been exacerbated by our budgetary difficulties in compensating for that by being able to maintain reasonably competitive rates. I think those two factors taken together—the inability to fund highly competitive rates and the natural difficulties in attracting people to a small agency—are very difficult issues for us.

CHAIR—Ms Penfold and Mr Brent, I presume this question may go to both of you. You have both got agencies, presumably, where you have workers with particular skills—legal skills, in one case, and particular skills in filming. How does the way in which the wages structure in the APS is now operating limit your ability to go out and attract staff into your agency? Lawyers are paid reasonably well in the private sector and that is the area you are competing against, Ms Penfold, and presumably in your agency, Mr Brent, the same circumstances would apply. How does that competitive environment work in relation to your agency?

Ms Penfold—It is a bit hard to give a simple answer to that. Until fairly recently we have not had too much trouble finding enough people who are interested in coming to the organisation.

CHAIR—What about the quality of the people?

Ms Penfold—We generally recruit at the bottom of the legal officer grades. We generally get lots of applications and, as you have hinted, a lot of them are from people in whom we would not be terribly interested. But because, again, we are looking for maybe two or three people at a time, we have generally found ourselves able to attract a pretty good group of recruits. It is a bit hard to know, of course, what is going on in the private sector, especially in places like law firms, but my feeling is that our starting salaries are rather less than the sort of people we are looking for would expect to get if they joined one of the big legal firms. But we can offer something a little bit different, quite apart from salary. There is really nowhere else outside the public sector or inside the public sector that you can do what we are doing.

This is increasingly important for some of them. There is an ability to do work that you can feel altruistic about. I think there is a legitimate expectation that, although the office works under pretty substantial pressures a lot of the time, people will not be expected to work the sort of extraordinary hours that are worked in some of the private sector legal firms. In fact, that is showing up a bit in the sort of people we recruit. If you go back, say, five or 10 years, a lot of the people we got were straight out of law school, because that was the only point in their careers that we could get hold of people with very good honours degrees in law. Once they got snapped up by the private sector, the salaries and the work went up so dramatically that we could not attract good people back into the public sector.

What we have found in the last few years is that we have managed to recruit some very talented people from private sector firms either because of lifestyle issues—people are looking for somewhere where they are not routinely expected to work seven days a week—or because of content issues. We are getting people who really are not interested in jobs that involve basically shifting a lot of money around a lot of different businesses or that sort of thing. They are prepared to come, even for significant pay cuts in some cases and, certainly in the longer term, significantly worse pay prospects because they are interested in the work or the conditions.

In the legal profession, things change from time to time. I think we are still in a situation of oversupply of law graduates and, as long as that continues, it is likely that we will be able to keep finding reasonably good people without having to worry too much about salary. We may well find that we have to start moving them in at a slightly higher level of our trainee scales. But I do not expect there to be a major problem with retention relating to salaries.

Mr Brent—There are some analogies with my organisation. We have technicians who are very much skilled in work that just is not done anywhere else. Although we use video technicians, the work they do for us is often very different from anything elsewhere. At the same time, as with lawyers in the Office of Parliamentary Counsel and the private sector, there is the same fundamental group of people we are trying to recruit from—technicians in the video, film or sound area. We also cannot compete head to head with the salaries that the television networks in Sydney, for instance, can pay their video technicians.

Our solution is very similar. We recruit at junior levels and train people up, and rely on a set of values other than salary to retain our staff. They have an interest in what they do; a commitment to what they do; and, I guess, some of those other features that the government still can provide which is greater long-term employment security than a lot of the Sydney firms that work in the high technology industries, and a commitment by the organisation to support people doing work that they are enjoying doing and feel is worth while.

CHAIR—Mr McLeod, may I come back with a question for you, probably more in your role as Ombudsman. The negotiation of AWAs is essentially, I think, that terms of service remain at the SES level, although there is a tendency now to go below that level across a number of agencies. In your role as Ombudsman, is this of any concern to you particularly in terms of the capacity for any systemic discrimination to occur throughout the administration process?

Mr McLeod—No, I do not really see it in those terms. I think what is happening in the public sector is really an expression of the industrial arrangements—the pay fixing arrangements which governments have created for application in the community at large. For many years the general policy in the Commonwealth area has been that pay rates and conditions of employment should be determined for Commonwealth public servants generally in harmony with the institutional arrangements that are established by governments for application to the community at large. I think what we are seeing in the public sector is no different today to what has always been the case, the difference being, of course, that the institutional arrangements are quite different. They are community based.

I would say, though, that because the Commonwealth government and the Commonwealth parliament have really been responsible for changing the industrial relations scene, in the Commonwealth area there has been a very strong adherence to the objectives that underlie the legislation so that one can see, in a sense, a more purist application of the principles and the objectives. That is true in many other areas of the community. In my own industry, if I could call it that, I have recently met with state ombudsmen. We have an annual conference to exchange notes. In almost all of the state government areas where state ombudsmen are employed the ombudsmen have been able to receive supplementation for salary increases that have been applied to wage increases negotiated for their staff. In some cases they have not even been required to develop their own individual agency agreements; they have been treated as part of a wider public service family and they have merely been able to get on with their core

business and to have the industrial negotiations worked out at a higher level and then simply applied to the organisation.

That sort of approach for a small organisation obviously has some attractions because it can enable you to concentrate your resources on your core business without having to devote some of your precious resources to developing your own unique arrangements. At the end of the day, it is unlikely that you are going to be able to finish up with an outcome that is particularly unique, simply because of other constraints that apply to you.

CHAIR—I would like to finish by asking one question of all three of you, which will give you a chance to kick the ball back in this direction. As small agencies, what specific changes or issues would you like to see the committee address or give priority to dealing with that would substantially enhance your capacity to operate as an agency?

Mr McLeod—I have a small list. I am conscious that the focus of your interest has been on personnel management but I guess my concerns have been more about management in a broader sense. I would be happy to make this small list available to the committee for whatever value you see in it. Essentially, they propose that the way in which small agencies are dealt with in a wider circle of organisations should carry with it a greater sense of recognition that small agencies do have difficulties which larger organisations do not, and that the application of general policies and principles ought to be modified or adjusted on occasion in recognition that sometimes these things, which are really developed in the context of what they mean for big agencies of government, can create a disproportionate burden on small agencies in being obliged to adopt them.

CHAIR—I have taken note of Mr Brent's comment about the inefficiencies involved in negotiating agreements for smaller users.

Mr McLeod—I agree entirely with his comments. One of the suggestions is that perhaps there should be some greater flexibility in our system that might enable small agencies to be dealt with as part of a wider family within the portfolio. Perhaps there should be some choice for a small agency to merely be included in a portfolio department's negotiations if there seems to be little sense and, indeed, significant cost involved, in that small agency being left to negotiate its own outcome.

Mr Brent—I would endorse the general comment while not wishing to have anything I say be seen as criticism of the reform process, because many of the reforms have provided substantial benefits to the organisation, and I signalled one earlier—the reforms in property administration. Others also have equally provided us with opportunities to exploit the peculiar circumstances of our agency. At the same time, if there are opportunities to cash in on the economies of scale that, for instance, our core department could deliver—and I note the example of our first certified agreement—then I say let us explore those opportunities further.

Our first individually negotiated agreement, once it was devolved from the central, across Public Service award and agreements, was negotiated by our core department and we simply rode on the back of that negotiation. That was a formula that worked well. I saw opportunities, where we did have particular circumstances that we wished to apply, for there still to be scope for having a particular provision added that related solely to our organisation. That arrangement

has since been displaced because of the government's commitment to workplace based negotiations. Although ultimately that may see benefits, it does come at a cost that I would not like us to ignore and for which you may have the opportunity to explore alternatives.

Ms Penfold—I would like to endorse Ron McLeod's suggestions about in general recognition of the position of small agencies in all these reforms. Specifically, one of the things I think would be useful would be for the coordinating agencies—to the extent that that concept is meaningful these days—to retain a role in providing assistance and options for small agencies, to make it easier for them to deal with this massive resource burden. What I am getting at is that, with a lot of the recent reforms, one of the particular things we find difficult is the need to generate policy documents and guidelines and all sorts of other things—for instance, terms and provisions for a certified agreement. We find ourselves pretty much on our own in terms of where to start.

It is all very well to say that the point of all this devolution is to give people the opportunity to do what they need to do to suit the needs of their particular agency—flexibility, et cetera—but the point is that if you do not have any particular problems that you want to solve through increased flexibility, or even if you do but you do not have time to deal with all of them right now, under the current arrangements you are still faced with an enormous amount of work merely to satisfy statutory requirements.

There are two brief examples I would like to give. When we started negotiating our certified agreement some time in 1998 we decided early on that, in accordance with government policy, we would have a comprehensive agreement, which meant that we needed to set out all the terms and conditions for our staff. We took the view that both in terms of our statutory obligations to the Industrial Relations Commission, or the Workplace Relations Commission, and in terms of our dealings with staff, we needed to be able to say as step one, 'Here are your current terms and conditions. Here is what we are proposing to change.'

Given that at that stage we had never had a certified agreement or anything like that, so there was nothing that distinguished our terms and conditions from whatever the standard ones were, we rang up the Public Service and Merit Protection Commission and asked, 'Can you give us the document that sets out all the current terms and conditions?' They said, 'There is no such thing. We cannot tell you that. We do not actually know.' I may be reading in that last bit, because I said, 'But surely you must have had one when you organised your own agreements?' They said, 'Oh, no.' So who knows?

In the end we had to do a large amount of quite difficult research to pull together something that we could put up to staff as existing terms and conditions. Indeed, we even found at one point that the only way to get some of it was to pay the Department of Employment, Workplace Relations and Small Business as consultants to give it to us. They said, 'Yes, we can let you have a clause on such and such through our consultancy agreement.' It seems to me that, from the beginning, there ought to have been someone who knew what the standard Public Service terms and conditions were who could have pointed to a folder and said, 'They are all in there.' But if that existed, people certainly were not prepared to give it to us as part of their job.

We have had a similar experience recently with the GST preparations where, again, we have a central coordinating unit that is supposed to make sure that all Commonwealth agencies are

GST ready. We found that in the last six months that unit has offered us five massive questionnaires to fill in—each around the 40-page mark—which invited us to tell them about things like our pre-scoping studies, our implementation team and so on.

As you might imagine from what I mentioned earlier about the size of my organisation, the implementation team was basically two people and there was not a lot of scoping being done. What we were trying to work out was what we actually needed to do to be GST ready, but for all the 200 pages of questionnaire we got and then the regular letter saying, ‘And you are not GST ready because you have not got enough green lights on your survey,’ it was not until they finally sent in someone from Deloitte to heavy us, because they did not like the number of green lights on our thing quite late in the piece, that we saw a check list that said, ‘Here are the things that ought to be done.’ By that stage, we had actually worked out just about all of those but, again, it had been a very painful and resource intensive process. I have this feeling that the coordinating agencies could certainly direct their help in a slightly different way that would save a lot of us a lot of effort and probably get better results in the end.

CHAIR—Did you seek the set of conditions from PSMPC or DEWRSB?

Ms Penfold—Part of the problem was that it was hard to identify who actually ought to have known. I suspect the truth is that there was enough uncertainty about that for each group to be able to say, ‘Well, it is not us,’ or at least, ‘It is not up to us to have a full collection.’

CHAIR—The buck stops elsewhere.

Ms Penfold—Yes. ‘Have a look on the Internet; it will be there somewhere.’

CHAIR—I think we have well and truly run over time. I want to thank the three of you very much for your contribution this morning. It has been invaluable, and if there are any other issues that you think we ought to take into consideration, feel free to—

Mr McLeod—Could I just offer to the committee one more simple exhibit, which I think is quite helpful. Dr Allan Hawke, Secretary to the Department of Defence, is chairman of a small group who have been looking at business improvement across the public sector. They have recently put together the results of a survey that they had conducted of a large number of Commonwealth departments and agencies just to get a feeling for the extent to which different agencies are involved in a range of management improvement activities. There is one table in Dr Hawke’s report—and he has agreed I can tender it to the committee—which shows the extent to which agencies, according to size, are embracing a range of change activities. I think it is very illustrative of the difficulties of small agencies, because you will note that the extent to which an agency is embracing a range of indicators of business improvement activity is in almost direct correlation to the size of the agency. The small agencies are all at the bottom of each of those indicators, which I think is just an indication of their inability to be able to engage in wide-ranging management improvement activity to the same degree as is possible with larger agencies.

CHAIR—We are quite happy to take that on board. Dr Hawke is also—

Ms Penfold—Could I just make a small comment on that please, without wishing to undermine Ron's suggestion. That may be partly because small agencies, by and large, actually know what they are up to. This is not a facetious comment. It seems to me the smaller and more confined the activities of a agency, the easier it is to be sure that you are, in fact, doing what you are supposed to be doing, and the less you really need to have a group of experts come in and tell you how to re-engineer your business processes or whatever. However, I am sure that is not the full story.

CHAIR—It may be a substantial part of it.

Mr McLeod—Small is beautiful.

CHAIR—As I said, if there is anything else you want to add to your comments today, please feel free to do so. Thank you very much.

[12.19 p.m.]

O'BRIEN, Dr John Michael (Private capacity)

VAN BARNEVELD, Ms Kristin (Private capacity)

CHAIR—I welcome you to this hearing of the committee. Is there anything you wish to add to the capacity in which you are appearing?

Dr O'Brien—I am appearing in a private capacity, but the research which I will talk about has been funded by the University of New South Wales. However, the University of New South Wales does not bear any responsibility for what I say based on the research conducted by myself and Dr Michael O'Donnell.

CHAIR—I invite each of you to make an opening statement before the committee proceeds to questioning.

Dr O'Brien—Given the difficulty with time, I will truncate what I am going to say but I would just like to explain what Michael O'Donnell and I have done and what we have been trying to do. We started with an exercise of looking at the process of agreement making in the Australian Public Service and we looked at about eight or nine agencies. We read the publicly available documentation and we undertook some interviews and there was also a limited survey which Michael O'Donnell conducted, and he spoke about it at your last hearing.

I suppose our starting point was to try and get some fix on the roles of government in this devolved environment: as the ultimate employer of staff in the Public Service, as the prime generator of policy—which, in this area, is a policy of decentralisation and devolution, in terms of both workplace relations and the Public Service—and as the ultimate financial controller of government expenditure. We wanted to examine how the agreement making process handled those roles and the potential contradictions in the roles.

As we proceeded we became concerned also to examine the role of agency managements in this new workplace relations environment and, indeed, how they handled those three roles of government. Our broad conclusion in relation to the role of agency management was that management has considerably enhanced procedural responsibility for the broad area of workplace relations but that there is still a maintenance of substantial and substantive central control, primarily through the parameters and, of course, through financial arrangements. Having said that, nevertheless we did conclude that there has been a significant enhancement of managerial authority, albeit within the framework of the parameters.

Our first piece of published work, which you have as an appendix to our submission, which is now entitled 'Government Management and Unions: The Public Service under the Workplace Relations Act', deals principally with the agreement making process. It concludes that the broader responsibilities of government, as well as its responsibility as an employer, require that it retain both substantive and substantial control over the agreement making process, despite having a policy agenda to further decentralise and devolve the process of agreement making. However, the management of agencies have a much increased procedural responsibility for

agreement making processes. They also have increased managerial authority overall, albeit again within the framework of the parameters.

This enables managements in the agencies to embark on—and this is really the term that came from them—a process of cultural change and that really is the subject of our second paper which we have called ‘Creating a new moral order: Cultural Change in the Australian Public Service’. We looked at the phenomenon of cultural change in the Australian Public Service in light of the changes brought about by the Workplace Relations Act—which, in itself, built upon changes made in the Public Service since 1983.

In particular, we assessed the role of performance management and performance based pay in those cultural change processes. Again, we undertook interviews with management representatives, although one of the agencies, the Department of Finance and Administration, was somewhat elusive about talking to us. I gather it is elusive in other contexts as well, but it is going to be here this afternoon. We did talk to a wide range of management people. Although we looked at about nine agencies, in our published work we have largely confined our discussion to the Department of Finance and Administration, the Public Service and Merit Protection Commission and the Department of Foreign Affairs and Trade.

We looked at the role of the Public Service and Merit Protection Commission as what we have called a ‘moral regulator’, a purveyor of Public Service values in a devolved environment. We looked at the role of the Department of Finance and Administration as an instrument of a kind of ‘can do’ private sector oriented organisation operating within a public sector environment. In the Department of Foreign Affairs and Trade we examined the shift from a policy oriented culture to a culture which was more focused on managerial value and practices without necessarily getting rid of the policy oriented work. The common link was this notion of cultural change, and we got this term from the managerial people we spoke to—they kept talking about cultural change. It is not something we started with.

In all three agencies, management had the authority to attempt to make these changes within the framework of the parameters for agreement making. Indeed, the parameters themselves required agency managements to do certain things, particularly related to those performance based classification systems. The principal method adopted by management to promote these various versions of cultural change was, in our view, through performance management generally and through performance based pay. In the light of Mr Blunn’s comments this morning, performance pay is not the only thing we are interested in, but it is the thing that really came out of our research. My colleague Michael O’Donnell spoke at some length at the last committee meeting about this and I do not propose to go over that ground again.

We also conducted some interviews and undertook some limited qualitative surveys of employees who were union members in a number of agencies. We looked, in particular, at employee responses to performance based pay and at the last hearing my colleague tabled a paper which we called ‘Performance based pay in the Australian Public Service: employee perspectives’.

Our broad conclusions that are relevant to the concerns of this committee are as follows. The process of agreement making in the APS was characterised by substantive and substantial control by the government. Nevertheless, within that framework of control, agency managers

were able to implement the parameters in such a way as to maximise managerial control within each agency. Managers thus had more freedom to shift the culture of the agency from a broad public service model to a more agency specific model, provided the new arrangements fitted within the policy framework laid down by government. The ‘empowerment’ of employees was less about agency level autonomy, however, and more about aligning the particular agency’s culture to that which best fitted the achievement of government objectives.

In the three agencies that we looked at more closely, there seemed to be an emerging gap between the rhetoric of cultural transformation towards ‘a high performance and high achievement public service’ to a reality experienced by employees. The modification of employee behaviour through the agency performance based structures may have been achieved to varying degrees in the three agencies that have been considered in some depth. It is less clear, however, that the hearts and minds of the new performance driven public servant have been captured to the satisfaction of management. The problems that emerged with the more limited performance payment scheme that operated in the early 1990s, and which was subject to a less than glowing report by this committee, seem to be manifesting themselves once again.

Perhaps all that can be achieved through cultural change is some modification of employee behaviour without necessarily an internalisation of the new cultural values. Notional assent to the new moral order is perhaps necessary for cultural transformation to take place, but that is all that can be expected perhaps from the first round of agreement making. I do have further comments about transparency and accountability, but if you want to ask questions, I will respond.

CHAIR—Fine.

Ms van Barneveld—I work at the Australian Centre for Industrial Relations Research and Training, which is basically a not-for-profit research centre based at the University of Sydney which conducts research into a wide variety of employment related areas and also maintains a database on registered agreements, including certified agreements and Australian workplace agreements. As well as maintaining the database, ACIRRT has conducted research comparing wages across various Public Service jurisdictions to find out how wage rates have changed for public servants since enterprise bargaining emerged as the primary basis for obtaining wage increases during the early 1990s.

In addition to my role as a researcher at ACIRRT, I am currently enrolled in a PhD at the University of Sydney. My thesis topic investigates the breakdown of collectivism in Australian labour law, particularly looking at the impact that this re-regulation of employment at the workplace level has had on those workers who have traditionally relied on the award safety net to determine their wages and conditions of employment. The key area I am looking at in terms of decentralisation is the impact that individual contracts, particularly in the form of Australian workplace agreements, have had on these workers.

While my thesis topic is not directly related to the public sector in terms of wages and conditions, in 1998 I conducted a case study in a Public Service agency looking at why AWAs had been used and the processes behind their introduction. This particular agency was not chosen for any reason other than that, after trawling through newspaper articles and calling various people, I found out that it had used AWAs. The management was kind enough to allow

me access to the agency for case study purposes. I can talk about that later if you want to ask me questions.

This brings me to the main problem that researchers have in terms of AWAs and that is, access. You would probably be aware that the Workplace Relations Act has very strict secrecy provisions prohibiting the release of information about AWAs unless permission is given by one of the parties to the agreement. After suggesting that, due to these provisions, AWAs would not be available to anyone for research purposes, some intense lobbying in 1997 led the Employment Advocate to grant access to AWAs for research purposes. However, the access that they have granted is far from ideal and does not allow a full picture of AWAs to be drawn by anyone.

Just to give you some background, in terms of the ACIRRT database that I alluded to earlier, currently there are details of approximately 7,400 certified agreements and of 593 AWAs on the database. The 593 AWAs on the database represent roughly one-third of the 2,026 AWAs that are currently available to ACIRRT for research purposes. To give you an idea of the number of AWAs the OEA has approved, at 30 April 2000, which is the latest available information on their web site, 101,655 AWAs had been approved by the OEA. They covered workers with 2,026 different employers and 18.9 per cent of employees covered by AWAs at this time worked for Public Service administration and Defence.

As mentioned earlier, ACIRRT has access to AWAs for research purposes. We purchase these agreements from the OEA. AWAs are kept in locked storage at ACIRRT. All staff who have access to these have signed individual confidentiality agreements with the Office of the Employment Advocate. Because the OEA was set up as a paperless office, the agreements which are supplied to researchers are taken from an OEA database called the Research Information System, or RIS. This is where the access problems begin in terms of research. When the OEA designed its administrative systems for the paperless office, it focused on its set-up as an administrative body, and did not take research access into account, particularly data retrieval from RIS for research purposes. At the time of the database design, there was basically the assumption that, due to secrecy provisions in the legislation, access to AWAs by the public would not be possible.

In terms of the OEA processes, all AWAs which are approved are scanned into an initial database and then transferred onto the RIS with the RIS only holding the first AWA from each employer. It is only from this RIS database that research access occurs. So only that first AWA from each employer is moved from the initial database onto the RIS.

No further AWAs are put on to the database regardless of whether or not they cover different employees from the same organisation. For example, if an employer registers a batch of AWAs covering gardeners first and later has one approved covering its managing director, only the first, the gardeners' AWA, which is approved gets put onto this RIS. Second and third generation agreements from the same employer are not recorded on the RIS either. This has obvious implications for the representativeness of data which is produced by the OEA as well as for researchers who access AWAs from this database.

While the RIS includes information for about 150 different data items relating to the content of an AWA, the OEA does not code for the existence of provisions but only for changes in

entitlements between the AWA and the award to which the AWA was compared for purposes of the no disadvantage test. For example, the type of data items which the OEA might look for are things like: did hours of work go up, did they go down or did they not change? It is the basic response to this question, being up, down or no change, that is recorded on the system.

The problem with this system is twofold. Firstly, it does not take into account the fact that by comparing against the relevant award the employee might actually have been covered previously by a collective agreement. The database for these employees therefore might overestimate the scope of changes which were introduced by AWAs simply because it is comparing back to the award rather than to the certified agreement that may have sat on top of the award. Secondly, the actual data items collected by the OEA are quite narrow simply because the coding process used by the OEA only picks up changes rather than coding for the existence of provisions in AWAs. For example, if one provision is included in an AWA but not in the award to which the AWA is compared, it will not be included on that OEA RIS database.

While information on the number of employees of one employer who are covered by a particular AWA is kept by the OEA, this information is actually kept on a separate database from the RIS. These databases cannot be cross-linked and researchers do not have access to this valuable information. Therefore, while access to AWAs has been granted to a number of researchers and research organisations, the representativeness of the information produced is questionable, as is the representativeness of the information produced off the OEA database itself. The picture painted of AWAs both by researchers and by the OEA could therefore be substantially improved. Indeed, it may be possible to suggest that, with the current systems used by the OEA and the access granted, data produced could be misleading. However, as researchers, we can only do the best we can with the limited information that we are given.

Senator WATSON—Dr O'Brien, a lot of your analysis or study concerned the bigger organisations. Would you like to comment on what is contained in your paper and observations compared with what the last three witnesses have presented to us?

Dr O'Brien—The three that we have written about certainly do not fall into the category of small agencies like the three agencies you heard from earlier. But they are not in themselves very large agencies compared to Defence, Centrelink and Foreign Affairs and Trade. The Public Service and Merit Protection Commission is quite a small agency and Finance and Administration is not all that large, either. It is in that kind of middle area.

One thing in this area that is significant is that in their first round of agreements they were LK agreements—that is, agreements between employees and the agency management, rather than LJ agreements between the relevant unions and management. In a sense, I am reacting to your assumption. They are not the largest agencies. You might get a different story if you looked at, say, Defence or Centrelink, just as you might get a different story by looking at the micro-agencies. The reason that we looked at those three is that the kind of comments about cultural change and the role of performance management systems and performance pay seem to emerge most strongly from those three agencies. We do not pretend that we can conclude from those three agencies or, indeed, the other ones that we looked at that they are applicable across the Public Service. We do not claim that they are typical, but they are interesting in terms of the questions that we set out to answer.

Senator WATSON—On wage rates, does your data include the total wage?

Dr O'Brien—We did not go—

Senator WATSON—I am asking the question in terms of her analysis and research.

Ms van Barneveld—The agreements database and monitor, which is the database that we code enterprise agreement and AWA information on, does include wages information.

Senator WATSON—The total wage or just the base?

Ms van Barneveld—It includes information on the base wage as well as the total wage, where that information is available—not the total wage at the conclusion of the agreement, however, but the total wage at the start of the agreement.

Senator WATSON—Does that database include information from the office of employment database? There was a suggestion earlier that it did not but, during your presentation, you indicated that that is where you get a lot of information.

Ms van Barneveld—No. As I mentioned, the OEA code for about 150 data items. We then purchase the agreements from them completely not coded—just a piece of paper—and then we have our own casuals who then go through them and code them completely independently of the OEA. Our database is slightly different as well because it codes for the existence of provisions rather than changes.

CHAIR—So if you look at the data for an AWA on the OEA database and look at the data for an AWA on your database, you could in fact be looking at apples and oranges because of the way in which the information has been fed in.

Ms van Barneveld—Potentially, but we might be coding for different data items as well.

Senator WATSON—How do you know that you are consistently examining the same thing?

Ms van Barneveld—On the ACIRRT database?

Senator WATSON—No, at the end of the day—when you put all your analyses together.

Ms van Barneveld—In terms of wages information or in terms of—

Senator WATSON—In terms of wages information—and you mention a lack of consistency in terms of the way the material comes in.

Ms van Barneveld—In terms of the information that we collect at ACIRRT, no inconsistency can occur. We have a set of coding frames, and we have coders who read through the agreement and look for those data items that are on the coding frame—and there are several hundred of those—and then they will be entered in. When they are reading through the agreement, if they note that there is something they do not understand—for example, the base wage with certified

agreements, which have the employer's name on the front and which is publicly available information—they call the employer if they can and ask them what the base rate was.

The problem with a lot of the collective agreements is that they might contain the wage rate from the date that the increase applied. They do not actually know what the base rate was that they started from in order to enter it into the database, so they will go back and call that employer. In terms of AWAs, we cannot do that because, technically, we do not know who the employer is, and that would be breaching the secrecy provisions and the confidentiality that we have agreed to with the OEA. So, in terms of comparing wages data from certified agreements and AWAs, there could be a slight discrepancy there, which is simply that, due to secrecy, we cannot check AWA wages data. But in terms of the other provisions, I think it is reasonably consistent in terms of ACIRRT internal databases.

Senator WATSON—Looking through the Public Service values, has your research thrown up any conflicts in terms of what AWAs might be seeking?

Ms van Barneveld—I am not entirely au fait with the Public Service values, so perhaps John, who knows about AWAs as well, might—

Dr O'Brien—My problem is that I do not have access to the information that ACIRRT does. You can make some sort—

CHAIR—Can I ask the question in the broader sense of the research that you are doing—looking at what has happened in the APS and this cultural change that you talked about. Have you actually taken the APS values statement out of the new act? Have you looked at that in the context of those changes occurring? Do you see any conflicts?

Dr O'Brien—I am aware of what the Public Service values are, and certainly we were aware of them when we did the research. But we were not testing what the agencies were doing against that. That was not actually what we were seeking to do. We were trying to find out how much scope agencies had within the parameter framework to change the way things were done. There is some degree of diversity there and a kind of a push-pull situation. The parameters say that certain things have to be done and they get enforced, although they get enforced in different sorts of ways. For instance, in Defence you have got a tick and flick incremental movement system which does not look that much different from what has gone on in the past. But in Finance and Administration you have got a very much explicitly performance management driven system, which nevertheless still sits inside those parameters. That is an interesting question, but we did not examine that explicitly.

Senator WATSON—I would have thought that was a pretty fundamental way to start your research: to go to the act and look at the code of conduct, particularly the values which are enunciated and spelt out in that. What discussions have you had with people such as Mr Peter Kennedy, et cetera?

Dr O'Brien—None with Mr Peter Kennedy specifically. My colleague did an interview with a relatively senior person. One of the difficulties for researchers is that we do not have the power of Senate committees to demand to talk to certain people, so we have to talk to the

people who are prepared to talk to us. In that case, we talk to somebody further down the hierarchy.

Our research question was: what was the process of agreement making? That was our starting point, and our first paper reflects our conclusions on that. But, as we did the research, we found the management people were constantly talking about cultural change and almost all of all of them said the same sort of thing. So we started to look at that, and then that linked in with performance management. If we were conducting an academic seminar, which we are not, your criticism of our research methodology would be a legitimate one. And I am sure we will go away and do that now. But that is not the way the research actually proceeded. We started at a different point.

CHAIR—Ms van Barneveld, the AWAs that are held by the Office of the Employment Advocate I think are in the range of 101,000. Are you able to ascertain from the way in which the information is held by that office how many of those are repeat AWAs?

Ms van Barneveld—For the same employer?

CHAIR—For the same employee.

Ms van Barneveld—So: I had one; it ran for 12 months; it expired; I got a new one?

CHAIR—It has been renewed, yes.

Ms van Barneveld—That was what I referred to when I mentioned second and third generation AWAs. And, no, because that information is kept on a separate database which cannot talk to the RIS, I cannot get that information. It is available to the Office of the Employment Advocate but it is not available to researchers.

CHAIR—So you do not know whether that 101,000 represents 101,000 employees, or 30,000 employees who are into their third generation AWAs, or 25,000 employees who are into their fourth generation AWAs?

Ms van Barneveld—That is a very good point. I would guess that you are right. You do not know and there could be a lot of double-counting in there. Again, you cannot necessarily assume that, because it is still reasonably early days, there would not be a lot of double-counting in there—AWAs tend to run for a lot shorter term than certified agreements. So, yes, there could have been a lot of one-year AWAs certified very early on, say in 1997 or 1998, that have rolled over and have become second and third generation agreements which are double-counted in here.

CHAIR—With respect to the AWAs that are held on the Employment Advocate's database and the AWAs that are held on your database, have you been able to ascertain, for either of them at what level they are applying? Are they applying to individuals who are essentially what we would classify as being in managerial levels of employment, a bit like it is in the Public Service, where the bulk of AWAs are at the Senior Executive Service level, not at the lower levels of employment? Is there the same trend in the private sector or is it different?

Ms van Barneveld—I have that data but I have not brought it with me. Again, there is the matter of the reliability of that sort of data. Because it is not produced by us but by the Office of the Employment Advocate and we are both relying on a sampling process which is completely inadequate, it is hard to say. However, from the data that is available, there is information that does say, by occupation, what proportion of AWAs cover employees. I do have a copy of that but I just do not have it with me.

CHAIR—Could you make that available to the committee?

Ms van Barneveld—Yes, that is fine.

CHAIR—Off the top of your head, what is the trend?

Ms van Barneveld—It is reasonably widespread. In 1997-98, there was a reasonably high proportion of managers, administrators and para-professionals. However, the 1998-99 data indicates that that has evened out. I do not know whether that is just the process in terms of how they are being entered on the database or whether there has been a shift in those 12 months to lower levels in terms of tradespeople, sales and personal service workers—those sorts of people. Certainly, a large proportion of AWAs cover low skilled workers. They are certainly not sitting necessarily at the top end. Mind you, if you were to do a public sector analysis of AWAs according to occupation, I suspect the picture would be slightly different from that painted by AWAs overall.

Dr O'Brien—When we started our work, we did consider trying to access AWAs in the Australian Public Service. But we abandoned that project because the problems outlined by my colleague were so difficult that we did not think we could produce anything sensible. That is the first point. The second point is that it seems to me, in terms of what the committee is interested in, that this raises some issues about accountability and transparency in that particular area of AWAs. I am offering an opinion now; this does not come out of our research. It seems to me, without necessarily breaching the confidentiality provisions of the act in relation to AWAs, that there is actually a lot more scope for providing information about AWAs in a way that could be used both by researchers and, indeed, by monitoring bodies in so far as they exist in the Australian Public Service, in order to see what actually is going on—what sorts of conditions are being agreed to in the context of AWAs. I am making a point about the difficulty of research, but I am also making a point about transparency and accountability. I think the Auditor-General made some comments about this at your first hearing.

CHAIR—Yes, at the first hearing he raised some concerns about that. Are either of you familiar with what is happening in the state public service arena in terms of the application of AWAs and the way in which data is kept at that level?

Ms van Barneveld—In New South Wales there is no provision for individual contracts to be made between an employer and an employee. They could have non-union collective agreements or union collective agreements, but certainly in the state public service you cannot have Australian workplace agreements. In Western Australia you can opt for the federal sphere—as you can in Victoria, obviously. But in terms of all the other states, it is not applicable. Until Queensland changed government recently, and in those states that have become Labor states, their legislation did mirror the federal Workplace Relations Act. Therefore, while they were not

called AWAs, they were called Queensland workplace agreements or Western Australian workplace agreements, which are slightly different. It was exactly the same as the federal provisions.

CHAIR—I am really asking a question about the way in which they keep the data. Is it any better than in the Office of the Employment Advocate or is it in the same form?

Ms van Barneveld—I am not sure about the actual process of storing the data, but the same secrecy provisions certainly apply. ACIRRT has done some research on the Western Australian jurisdiction, but the reason we got access to agreements was actually essentially off the back of a truck and provided to us by the Western Australian Trades and Labour Council. At the time of writing that report we could not even check whether or not those agreements had been approved by the Western Australian commissioner for workplace agreements. We just had to accept the 100-odd agreements that were given to us by the Trades and Labour Council, analyse those and put hundreds of caveats in our report to say, ‘We cannot even check whether or not these have been approved.’

Dr O’Brien—At the moment I am currently editing a series of papers that will be published later this year in the *Australian Journal of Public Administration* about public sector industrial relations in the states and territories. I think they will cover all except the Northern Territory. I have already seen the Western Australian paper. It does not go to the storage issue, but it goes to the incidence of individual agreements in the Western Australian system. The public sector in Western Australia is a very large employer—it is one of the larger employers in the states—and more often than not public sector employees are covered by state arrangements rather than by federal arrangements. There is some evidence—I am relying on my memory now—that there is quite a high incidence, compared with other industries, of Western Australian workplace agreements in the Western Australian public service or in the public sector broadly. There also seems to be more known about them. The secrecy provisions in Western Australia are much the same as apply in the federal act, but as they have been going for a bit longer there seems to be a bit more knowledge about it.

If you like, with the permission of the authors—because it is not my material—I could supply that paper on Western Australia to you. At the other end of the scale, of course, in New South Wales I think it is fair to say that even though there is some attempt at decentralisation, it is still a highly centralised process in the New South Wales public sector, even in the core public service.

CHAIR—Sorry, Dr O’Brien, it has just been drawn to my attention that, in the act in Western Australia, the secrecy provisions do not apply to public sector agreements. Maybe that is why a bit more is known about them.

Dr O’Brien—It will indeed. That is probably the answer; I did not know that.

CHAIR—I was also interested in the way in which the data are captured and held, because it is one of the key issues that has been raised by the Auditor-General, in terms of not just the secrecy provisions but also whether or not the data can be held in such a form that you can actually get a relevant picture out of it as to what in fact is happening with employment conditions as a result of AWAs.

Dr O'Brien—I am not an expert on the act, of course, but the act itself—that is, the Workplace Relations Act—requires secrecy in keeping particular forms. Whether it requires other processes, I am not sure.

CHAIR—No, it does not.

Ms van Barneveld—By the same token, I think the only arguments that the OEA would probably make would be something along the lines of, 'It is set up now, and it would be too difficult to go back and change it.' Certainly, I have expressed to them frustration at not being able to draw a representative sample of anything from the system the way it is set up. They are aware of those problems, but I think, because they are well-established now, it would be quite costly and time consuming—all those sorts of things—to go back and essentially start again to try to fix those problems. It just stems from the fact that when the system was set up, it was not set up with research in mind. It was set up with a paperless office that people outside the organisation were not going to have access to because of the secrecy provisions.

CHAIR—The next election might resolve the problem.

Dr O'Brien—We cannot comment on partisan remarks.

CHAIR—Nor should you. Thank you very much, Dr O'Brien and Ms van Barneveld for your contribution today. It has been very helpful.

Proceedings suspended from 12.59 p.m. to 2.03 p.m.

BOXALL, Dr Peter, Secretary, Department of Finance and Administration

BURNS, Ms Julia, Branch Manager, Comcar, Department of Finance and Administration

MORAWSKA-AHEARN, Ms Jenny, General Manager, Corporate, Department of Finance and Administration

SULLIVAN, Ms Barbara Joan, Manager, People Strategies Branch, Department of Finance and Administration

CHAIR—Welcome. Dr Boxall, do you wish to make an opening statement on behalf of the department?

Dr Boxall—Barbara Sullivan will make a short opening statement.

Ms Sullivan—I am presenting DOFA's opening statement to the committee this afternoon and will also assist Dr Boxall, Ms Morawska-Ahearn and Ms Burns in answering your questions. My statement supplements the submission that was forwarded to the committee on 14 April this year.

CHAIR—Can I ask you about that submission before you go on. It had a heading on it 'Staff-in-confidence'.

Ms Sullivan—I overlooked the fact that this was a public hearing and that those documents were meant to be public. That was just an error on my part. We spoke to the secretariat yesterday and there is not a problem with that.

CHAIR—Thank you. Please proceed.

Ms Sullivan—The committee has expressed an interest in DOFA from a couple of perspectives: as a central coordinating agency and also as an employer. I would like to deal with the central agency aspect first because, in effect, DOFA's role as a central agency in relation to APS matters is now very limited. Our role as a central agency changed significantly from about 1996 onwards as a result of devolution of powers to agency heads. That came about with the passage of legislation such as the Financial Management and Accountability Act, the Workplace Relations Act and the Public Service Act.

In the past, the department of finance played a very active role in coordinating and controlling a host of matters to do with public sector employment. We basically ran the pay system, controlled the establishments and the staffing profiles of departments and agencies, managed the continuous record of the personnel information system and determined the extent and make-up of pay rises for APS employees. We also played a significant role in setting and controlling the number and the level of SES positions in agencies.

When agency bargaining was first introduced into the APS in the early 1990s DOFA also had a significant role in influencing the levels of pay rises negotiated under the first round agreements. We held the power to veto agreements if agencies did not meet our requirements regarding funding of pay rises or some other financial elements of their agreements. We also developed and managed the concept of the foldback pool after the first round of agreement making, and redistributed funds to those agencies unable to fund pay rises themselves through their own agreement making processes. These roles are no longer held by DOFA or, in most cases, by any other agency in the public sector. You have heard from DEWRSB and PSMPC about their current responsibilities for service wide employment issues.

DOFA's role now in relation to staffing or employment matters is coordinating and reporting average staffing level information as part of the budget process. The negotiating and decision making in terms of staffing levels, remuneration and financial expenditure are now all matters for individual agency heads and the relevant minister.

With regard to our role as an employer, DOFA has a flexible employment framework that complies with government policy; helps us run our business effectively to deliver the government's outcomes; allows us to attract, retain and reward our people with competitive remuneration and non-monetary benefits; and allows maximum flexibility for employees to help them balance work and family commitments. Government policy is to encourage direct relationships between the employer and employees. Our employment framework fully complies with that policy direction as well as meeting our business needs.

There is a whole raft of different human resource management tools and mechanisms that employers can choose from to help them best operate their business and keep their employees satisfied and motivated. Our employment framework in DOFA was developed in consultation with employees and incorporates some of these tools. For example, we have a broadbanded classification system; flexible and competitive remuneration arrangements appropriate to our employment market; a choice of either a collective agreement or individual agreements for expressing terms and conditions of employment; and, as its linchpin, a performance management system that applies to all employees. Within this framework, employees and managers are able to discuss and agree the roles and responsibilities to be undertaken for the coming year, the outcomes to be achieved, remuneration to be paid, areas for development, and support and rewards for competent or better performance.

I will turn briefly to our certified agreement and our AWAs. Our certified agreement is an LK agreement for all non-SES employees in DOFA. It was negotiated with the employees, but DOFA made a corporate decision to include the unions in our negotiations. Both the Community and Public Sector Union and the Media, Entertainment and Arts Alliance subsequently sought to be bound by the outcome. Our certified agreement provides access to AWAs for all employees if they choose to take them up. We have a high level of staff on AWAs now. Even though it has passed its nominal expiry date, our certified agreement remains alive and active and will continue to do so until it is replaced by another agreement or it is terminated. The nominal expiry date is significant to the extent that it defines a point in time before which both parties may seek to have the agreement varied or terminated. After the nominal expiry date, any of the parties can initiate this action, but the agreement remains operational until it is terminated or replaced.

There are many common elements shared by our certified agreement and most of our AWAs. It is a matter of choice for an employee as to which form of agreement best suits their circumstances. At any point in time an employee can move from one to the other if they so choose to do. From DOFA's perspective, we have a combination of agreements that best meet our business and employees' needs. In our view, that mix is working well. Some of the common elements between the two types of agreements are: access to ongoing pay rises for people if their roles or responsibilities increase, flexible working arrangements to help them balance work and home, financial and other assistance to promote ongoing learning and development, regular feedback to help people improve their performance, and performance bonuses to reward performance which is competent or better.

There are also a couple of practical differences between the two types of agreements. The certified agreement is intended to be a general agreement to apply to all staff. It includes general terms and conditions, and provides for ongoing salary increases for increased skills and responsibilities within our agreed classification framework. An AWA provides a tailor-made vehicle for individually negotiated terms and conditions, and salary levels, within that same overall classification framework. An individual can seek to negotiate an agreement or an arrangement that is the best match of his or her expectations and the workplace requirements. Examples could include special consideration of, say, study requirements or some particular arrangements to help them balance work/home.

DOFA's employment framework was unique when it was introduced three years ago but other agencies are now starting to copy elements of it. Our focus is on performance at both the organisation and the individual level and we have evidence to show that our system is working well at both levels. At the organisational level, the average rating under our performance management framework has steadily increased over the three years that it has been in place and the percentage of staff who are assessed as borderline or unsatisfactory under the program has dropped as well. At the individual level, almost everyone in the organisation has received some level of performance pay as a result of their individual performance. We keep a watching brief on our framework to make sure that it is still relevant to our needs as a business and for our employees. We are aware of the committee's interest in the gender impact of performance pay arrangements in APS agencies and we can provide you with information to show you that DOFA is working well in that area. You may also like to hear about the non-monetary benefits that we provide for our employees via our work/home balance initiatives.

We regularly seek employees' views regarding our employment framework, through a variety of different avenues. The secretary holds round table meetings with different groups of employees every month or so. He also holds all-staff forums on a bimonthly basis, where people are able to engage in questions and answers on anything that they want to raise. We have held structured consultations with employees at various times and we have an internal email mechanism for staff to express views or to find out information. These are examples only; they are not exhaustive. To date the feedback indicates that our employment framework is still working and it does not need to be changed. We are confident that our salary arrangements are very competitive. However, we will continue to monitor our framework and will finetune it and adjust it where appropriate.

I just want to briefly touch on the issue of the CPSU and its comments that DOFA is also refusing to negotiate a new certified agreement. The CPSU contacted the department in early 1999 about negotiating a new certified agreement, soon after DOFA had actually written to the

union to advise of a preliminary view that no replacement CA would be needed for the time being. DOFA officials also met with the CPSU on two subsequent occasions, in April and July 1999. On both occasions we actually discussed our employment framework and the union's concerns. The department's consistent position, after consulting with staff, was that we thought our current certified agreement was still operational and that our preference was not to negotiate a new agreement at that stage. We have recently been contacted by the union again, by letter received on 17 May, and asked to discuss our position again on the question of a new certified agreement. As with the earlier approaches we have agreed to meet with the CPSU to discuss their views and we have a meeting scheduled for early next week. The committee is probably aware that we are actually negotiating a new certified agreement for our Comcar employees to best meet the needs of our business and those people. I will end there unless anyone else has anything to add.

Dr Boxall—That is it, Senator, for the opening statement.

Senator WATSON—No-one else wishes to contribute in terms of their respective position? Thank you. What safeguards do you have to protect against nepotism creeping into the more personalised arrangements which are negotiated with individuals—for example, skills and responsibility loadings, performance pay?

Ms Morawska-Ahearn—In terms of appropriate use of the skills and responsibilities component, first of all, we work with all our managers to make sure that there is an understanding of what that component means. Secondly, we have a very high level remuneration committee that looks at any changes to the skills and responsibility component, be it on the CA or in an AWA.

Senator WATSON—Is it true that staff turnover levels for DOFA are perhaps a little higher than the average?

Ms Sullivan—The staff turnover levels for DOFA are about 22 per cent per annum. That is consistent with figures for the industry that we work in, the finance sector. It can sometimes be a little bit higher than some of the APS agencies.

Senator WATSON—You are comparing it with an outside finance agency which probably has a very heavy bias in terms of the Sydney market, but nevertheless it is high in relation to the APS. Why is that?

Ms Sullivan—We do not compare with just an external finance agency, I was talking about the finance sector which can include Commonwealth and state government organisations as well as private sector organisations that deal with financial issues. Compared with the APS, we are probably comparable to agencies like Treasury or PM&C that I think probably in the earlier hearings have also indicated they have got slightly higher than the average level of turnover in the APS.

Senator WATSON—What do you attribute to your high levels of turnover? It is high, isn't it? I would consider it high if I was a manager.

Ms Sullivan—It is comparable to the market in the industry that we work in.

Senator WATSON—What are you doing to combat it?

Ms Morawska-Ahearn—I guess we have a range of initiatives. One of the things we are doing is that we have a highly integrated performance management framework—

Senator WATSON—A highly integrated—

Ms Morawska-Ahearn—We have a highly integrated performance management framework which allows people to really understand what is their job and how they fit into the broader scheme of things. We aim for a very strong work-family balance. Ms Sullivan mentioned that we have quite a lot of programs that we are happy to expand on. We do have quite a range of initiatives around the organisation so that it becomes a place where not only do we recruit high level staff but we also retain them.

Senator WATSON—You do not think that the practice of performance pay, which has been rejected by a number of the smaller agencies, is a contributing factor?

Ms Morawska-Ahearn—Not at all.

Senator WATSON—Haven't you found over time you experience certain problems in terms of personnel relations?

Ms Morawska-Ahearn—What specifically do you mean, Senator?

Senator WATSON—Some of the smaller agencies gave us fairly consistent advice as to difficulties that they have found in terms of affecting over time these sorts of arrangements.

Ms Morawska-Ahearn—If anything, the system allows for a greater clarity of expectations between people. I think it is actually positive from that point of view.

Ms Sullivan—We have not experienced any problems in DOFA with performance management.

Senator WATSON—I was just wondering whether perhaps in terms of you evaluating why people leave, that may have been a reason.

Ms Morawska-Ahearn—Over 95 per cent of our staff this year attracted performance pay, so I do not think it is an issue for us.

Senator WATSON—What were the reasons for your people leaving DOFA?

Ms Morawska-Ahearn—We do not have that data with us.

Senator WATSON—Don't you have data as to why people are leaving?

Ms Sullivan—We can give you a general indication in terms of movements to other organisations where DOFA people are actually quite sought after. There is a bit of mobility and transfer between APS agencies, but not in any specific detail.

Senator WATSON—I thought that would be a bit of a gap in your personnel relations, not knowing why people leave, whether it is because of pay considerations or administrative issues. I am surprised because you are a leader in so many other fields, but there seems to be a bit of a black hole.

Ms Morawska-Ahearn—No, I would not say that, Senator. I think that the issue is that we are a central agency. One of the consistent issues in the APS—and we saw it with the PSMPC and the DEWRSB figures—is that a lot of people want to do a stint in a central agency but their grand plan is to move through. So we do get mobility for that reason. I think it is probably one of the reasons why the statistics of the central agencies are marginally higher than the others. But I do not think it is a DOFA specific problem, I think it is more than the role of a central agency.

Senator WATSON—Given the momentous changes that have happened in recent times—affecting not only DOFA but the whole of the APS—do you still maintain that there is a need for a cohesive APS, given the devolvments that have been occurring?

Dr Boxall—That is really an issue for the Public Service and Merit Protection Commissioner, because they are in charge of the APS-wide policy on these matters. We believe that DOFA is part of a cohesive APS and that our policies with respect to certified agreements and AWAs are consistent with that.

Senator WATSON—Nowadays, what gives you that cohesiveness?

Ms Sullivan—A common classification system applies across the APS, even within agencies where there might be broad banded classifications. There are also portable leave arrangements that allow people to transfer their entitlements. Of course, with the passage of the new Public Service Act, the code of conduct and the APS values will tie the APS together.

Senator WATSON—I see.

CHAIR—What do you mean by portable leave arrangements that allow people to transfer their entitlements?

Ms Sullivan—It applies to people moving from agency to agency. In the private sector you might have to be paid out all your entitlements and you start again with a new employer. Within the Public Service you have the capacity to carry your leave with you. There are mechanisms behind that which carry the financial liability to the organisation, but from the employee's perspectives, it is fairly seamless.

CHAIR—I misunderstood what you were trying to say. In that context, within your certified agreement or AWA, do you provide a capacity to cash-out leave entitlements?

Ms Sullivan—Yes, there is a capacity to cash-out one week of annual leave per year.

CHAIR—Wouldn't that, over time, operate in the opposite direction to what you are saying? Wouldn't it be a restriction on mobility rather than a facilitator of it?

Ms Morawska-Ahearn—We find that very few people take advantage of that; it does not seem to be a need for people. The cases that we have had have tended to be where there has been some specific, usually home based emergencies or something like that. It has not been largely utilised. In terms of mobility, it would not really have an impact.

CHAIR—It is not something that is high on your agenda, like it is in the private sector with private employers?

Ms Morawska-Ahearn—No.

Senator WATSON—Your AWAs are fairly detailed and individual. How do you ensure, or do you ensure still, that people who are working at the same level are paid equally? Do you distinguish between people's performance— could someone be slightly above another, yet be sitting in the same aisle?

Ms Morawska-Ahearn—No, as I mentioned before, we have a high level remuneration committee and all changes go before that committee, which acts as a high level process to make sure that there is equity across the organisation.

Senator WATSON—Equity across the organisation but, at the same time, you could have two people performing the same job but being remunerated differently?

Ms Sullivan—There is a fine distinction here—and I think you referred to it in the earlier part of your question—between work value and performance. There is a difference there and DOFA is very careful to distinguish between those two elements. If you have people doing work that is of the same value, then the mechanism that Ms Morawska-Ahearn mentioned and also the fact that you have work level standards, are the safeguards that ensure people get remunerated appropriately. If people perform at higher than competent levels, doing that work, they become eligible for performance bonuses. That is where you will get some differential outcomes.

CHAIR—Who makes that judgment?

Ms Sullivan—Which part?

CHAIR—About people who are performing at higher levels.

Ms Sullivan—It is made as part of our performance management framework by managers.

CHAIR—And what is taken into consideration in the criteria when you make that judgment?

Ms Sullivan—All of those factors are set out in our certified agreement and it would involve outcomes to be achieved over the year and how people perform against the DOFA behaviours.

CHAIR—Are the DOFA behaviours set out in the Certified Agreement as well?

Ms Sullivan—Yes, they are.

Ms Morawska-Ahearn—They are also in the annual report.

Senator WATSON—We heard some very interesting presentations from Ms Hilary Penfold today that her staff are basically treated equally, and that seems to provide a very family orientated, self-helping type of organisational structure. The outcomes appear to us, on limited evaluation, to be very satisfactory. Are there any features that distinguish your operation from that of OPC?

Ms Morawska-Ahearn—Absolutely. First of all, OPC is a smaller organisation. Secondly, it is a more homogeneous organisation than ours. We have a range of business units, with a range of needs and different personnel and different skill requirements. So I think it is a bit difficult to compare DOFA to OPC on that basis.

Senator WATSON—I can understand that perhaps in the business or commercial area, but, when we come back to the more routine functions of government and the responsibilities that DOFA have in discharging that, I have a concern that perhaps over time when people start to talk there may be some difficulties. You do not perceive that? You have not had any experience of that, I gather?

Ms Morawska-Ahearn—No, none at all.

Senator WATSON—That is interesting. In terms of accountability to parliament, do moneys paid, particularly the additional moneys paid to staff because of this enhanced performance and enhanced outcome, get on the public record or not?

Ms Sullivan—We report our performance pay in our annual report every year.

Senator WATSON—What do you mean by that?

Ms Sullivan—In our annual report, we report the amount of money that we actually pay for each band of people. It is on page 89 of this year's annual report.

Senator WATSON—We know the remuneration of the Secretary of the Treasury, for example. But the question is: do we know the remuneration—as we used to—of Joe Blow working in a second division in DOFA, after performance pay? Is that now regarded as secret?

Ms Morawska-Ahearn—We know within salary ranges how many people fall within those ranges, we know averages within bands, but we do not know specific details of specific individuals.

Senator WATSON—What I am saying is that perhaps there is now a greater degree of secrecy in terms of expenditure from the public purse, not necessarily in terms of individual

bands or groups but in terms of individuals within those bands or groups, whereas previously they used to be very transparent. Is that right, or am I wrong? Tell me if I am wrong.

Ms Morawska-Ahearn—I am afraid that is not within our purview to comment on.

Senator WATSON—Dr Boxall, am I correct in saying there is now less transparency compared with what may have been the case, say, in 1995? I know there is transparency in terms of the aggregate. I acknowledge that, but I mean in terms of the individuals.

Dr Boxall—I think this is really an issue for DEWRSB, because it goes to the issue about what information on AWAs can be given out, or possibly for the Public Service and Merit Protection Commission, which, as you would know, is responsible through its minister for the Public Service Act. It is not an issue that DOFA gets into. All I can say is that DOFA, like any other agency, operates within the law and within the guidelines—

Senator WATSON—I am not querying that at all. That is not the issue.

Dr Boxall—and we report to parliament through our annual report, according to the requirements.

CHAIR—Dr Boxall, at the first hearing of this committee, the Auditor-General expressed real concern about the way in which records were kept, the secrecy provisions of AWAs and the inability, essentially I think was his concern, of the capacity of the Auditor-General to be able to make broad judgments about what was occurring across the public sector in terms of employment, wages, salaries, conditions, et cetera. In the discussions we have had—and DEWRSB has been here—we were told that the whole thrust within the public sector is to devolve power back to the agencies. They said that the role that they had of central oversight was gone; that it was essentially a matter for the agencies. I think the question that Senator Watson has asked is quite a legitimate question in terms of how you see the secrecy provisions in respect of AWAs applying to your agency and whether or not you believe it could be more transparent, or should not be more transparent, or should be maintained.

For example, Mr Evans, the Secretary to the Treasury, said that in Treasury they were all on AWAs, but the AWAs were transparent. Everyone in Treasury knew what was contained in the AWAs that applied to everyone else in Treasury. They did not apply the secrecy provisions. If a department as large as Treasury is capable of doing that, then we are quite interested to hear what the view of DOFA is in respect of the transparency issue.

Dr Boxall—I do not know what Treasury's position is on AWAs. As a matter of fact, I thought that the Secretary to the Treasury was referring to performance pay, but I could be wrong. I am advised that it is against the law to report the details of AWAs. Obviously, if employees who are on AWAs want to report those details, that is their business. I am not an expert in this area, but that is my understanding of the law, and that is administered by the Department of Employment, Workplace Relations and Small Business and their minister. We follow that law. We do not make public within DOFA the details of AWAs because we believe it is not consistent with the law. So it is a bit difficult to answer Senator Watson's question.

CHAIR—The law says one of the parties, Dr Boxall.

Dr Boxall—You may be more up to speed on this than me, Senator Campbell, but my understanding is that it is not the practice for an employer to unilaterally publish all the information on AWAs of their staff, whether it is in the private or the public sector.

CHAIR—It may not be the practice of your department; I am saying that the law says one of the parties, and we were advised by the Secretary to the Treasury that it is quite open and transparent in terms of that department. If you are saying—and it is a reasonable position for you to take—that, in respect of DOFA, your preferred approach is to keep these AWAs secret, keep the provisions confidential, that is fine.

Dr Boxall—I was just about to answer, Senator Campbell, that what might suit Treasury is their business; what suits DOFA is to proceed in the way we have done over the last three years, which is not to make public details of AWAs; moreover, we do not believe we have a legal basis to do it. We have received no requests from staff to do that, and it is not management's position to unilaterally do it.

Senator WATSON—Is that why DOFA did not participate in the SES remuneration survey?

Dr Boxall—No, it is not.

Senator WATSON—What was the reason for that?

Dr Boxall—The SES survey is voluntary and it costs money. DOFA made a judgment that we do not require that information collected by the survey, and we do not think it is a good use of taxpayers' money in DOFA. It may well be a good use in other departments, but we do not believe it is a good use of taxpayers' money, given DOFA's circumstances, to participate in that.

CHAIR—Do you think it is a reasonable expectation, Dr Boxall, for the parliament to be able to satisfy itself that departments are accountable and it can scrutinise that accountability in terms of the moneys that are paid out for remuneration to public sector employees?

Ms Morawska-Ahearn—Yes, Senator, and that is why we publish the figures in the annual report.

CHAIR—But your figures are aggregate figures—we get totals. I will come back to some basic questions. How many employees does the department have?

Ms Sullivan—About 750.

CHAIR—What number are SES?

Ms Sullivan—Around 45.

CHAIR—How many employees in the department are on AWAs?

Ms Sullivan—Just over half.

CHAIR—Does that include all of the 45 SES officers?

Ms Sullivan—Yes.

CHAIR—So around half the other employees—375—are on AWAs?

Ms Sullivan—That is right.

CHAIR—So 375 employees are not on AWAs. How many of those 375 employees have indicated to you they want the certified agreement?

Ms Morawska-Ahearn—Those employees who choose to be on the certified agreement presumably want the certified agreement. Others have made the choice to be on an AWA. It is very much an individual choice; it is up to the individual staff member.

CHAIR—But a number of employees have indicated they want to be on a certified agreement?

Ms Morawska-Ahearn—Yes, the ones that are on a certified agreement. It becomes a personal choice.

CHAIR—And that certified agreement expired in June last year?

Ms Morawska-Ahearn—It nominally expired, Senator, but in fact it continues.

CHAIR—Yes, I know of the practice of the continuation of awards and certified agreements. But nominally its expiry date was June last year. Have those employees endeavoured to renegotiate that agreement?

Ms Morawska-Ahearn—No. We have had a lot of consultations with the employees, Senator, and it just appeared to be—

CHAIR—Have they served you with a log of claims?

Ms Morawska-Ahearn—Not to my knowledge.

Ms Sullivan—Our employees have not served us with a log of claims.

CHAIR—Has the union served you with a log of claims on behalf of employees?

Ms Sullivan—Yes, the union did serve us with a log of claims.

CHAIR—Have you responded to that log of claims?

Ms Sullivan—Yes, we did.

CHAIR—Have you sought to negotiate with them?

Ms Sullivan—No.

CHAIR—Why not?

Ms Sullivan—We said that, based on the feedback we received from consultation with employees, there was not a sufficient case for us to negotiate a new certified agreement and we declined to do that.

CHAIR—Did you consult every employee they sought to represent?

Ms Sullivan—We had a significant consultation process three months prior to the nominal expiry date of the certified agreement.

CHAIR—Ms Sullivan, I asked whether you consulted every employee that the union sought to represent in that log of claims.

Ms Morawska-Ahearn—Senator, we do not know who our union members are, so we cannot do that.

CHAIR—Why did you respond in the negative and refuse to negotiate, then?

Ms Sullivan—Because our certified agreement was with our employees and we consulted with all of our employees through a number of mechanisms, and we also discussed the issues with the union and consulted with them. As a result of that and the feedback we got from people we decided that people were happy with the certified agreement and did not see a need for it to be renegotiated.

CHAIR—But if the union served a log of claims on behalf of employees, that would be an indication that some employees, at least, were not happy with the certified agreement. Dr Boxall has made a point of applying the law. The law does provide for unions to represent employees—at the moment anyway—and does provide a process for the commencement of negotiations and does provide a process for negotiations. Why have you held out in terms of negotiating the renewal of the certified agreement?

Ms Morawska-Ahearn—Senator, as I understand it, we have not refused to negotiate as such.

CHAIR—That is not the evidence the union gave before this committee a couple of hearings ago. Are you saying that you have not refused to negotiate with the unions?

Ms Morawska-Ahearn—I am not aware that anybody has refused to negotiate as such, no.

Ms Sullivan—Senator, we have had only a very small amount of contact from the union. They served us with a log of claims and we met with them. We expressed a view, based on the consultation and feedback from our employees, that we did not see a need to renegotiate a new certified agreement. They did not follow that up. The last contact we had was in May this year and we have agreed to meet with them again.

CHAIR—Yes, I understand next week.

Ms Morawska-Ahearn—Yes.

CHAIR—Are you saying that the union did not follow up its initial discussions with you?

Ms Sullivan—There has been no active follow-up by the union on this matter.

CHAIR—You are quite happy to sit down with the union and to renegotiate the certified agreement in respect of those employees that they represent?

Ms Morawska-Ahearn—We negotiate with the employees, but we are quite happy to have discussions with the unions, and we will be doing so next week.

CHAIR—Under the act, employees are entitled to be represented by a union, if that is what they desire to do.

Ms Morawska-Ahearn—I would not want to pre-empt the outcomes of next week's meetings.

CHAIR—I am just making the point that, under the law that Dr Boxall quoted, unions are entitled to represent employees if the employees so desire to be represented.

Ms Morawska-Ahearn—That is right.

CHAIR—So you will sit down with the union and negotiate with the union in respect to the renewal of the certified agreement for those employees that seek to have it done that way?

Ms Morawska-Ahearn—We will have discussions with the unions next week.

CHAIR—You are saying to me you will not sit down and negotiate the renewal of the certified agreement?

Ms Morawska-Ahearn—No.

CHAIR—What is it that you are trying to say to me?

Ms Morawska-Ahearn—I am saying that we will have discussions next week with the unions.

CHAIR—Will those discussions be negotiations or a friendly chat over a cup of tea?

Ms Morawska-Ahearn—I would hate to pre-empt the outcome. I do not know.

CHAIR—Surely you know whether you are going into friendly discussions or negotiations?

Ms Morawska-Ahearn—Of course they will be friendly discussions; they are always friendly discussions.

CHAIR—But there won't be negotiations?

Ms Morawska-Ahearn—I do not know. My sense is that you need to go with an open mind into these things.

CHAIR—We will await the outcome.

Senator WATSON—How do AWAs impact on the money that is available for other staff on a certified agreement?

Ms Morawska-Ahearn—They do not. That does not have any impact at all.

Senator WATSON—You do not have budgeted amounts for—

Ms Morawska-Ahearn—No, we operate within a business framework and we have a budget for the organisation.

Senator WATSON—A global budget?

Ms Morawska-Ahearn—Yes. We manage within that.

CHAIR—Ms Sullivan, you talked before about your performance management system not having any problems. What about your performance pay system?

Ms Sullivan—It went really smoothly this year; we do not seem to have any problems there either.

CHAIR—Is it not having an impact on morale in the department?

Ms Sullivan—It is positive.

CHAIR—Of the 750 employees, which includes the SES people, how many would be on performance pay?

Ms Sullivan—All but, I think, two per cent this year received performance pay. The system is applicable to everybody, so everybody is eligible to receive performance pay depending on their individual performance.

CHAIR—What is the range between the top and the bottom? Is there an upper level of performance pay you can receive, or a lower level?

Ms Sullivan—Under our certified agreement it ranges between two and 15 per cent.

CHAIR—Is the same applied to the AWAs?

Ms Morawska-Ahearn—In a sense, the AWA is an agreement on which we do not have the information in the public domain, so it is a bit difficult to comment on that without revealing specifics.

CHAIR—What I am asking you is: is there a range in the AWAs?

Ms Morawska-Ahearn—It is whatever the individual negotiates.

CHAIR—But is it within a range?

Ms Sullivan—There is no fixed range for AWAs.

Ms Morawska-Ahearn—There is no capped—

CHAIR—There is no cap?

Ms Morawska-Ahearn—minimum amount, no.

CHAIR—There is no minimum amount or there is no maximum amount that can be negotiated?

Ms Morawska-Ahearn—No.

CHAIR—The AWAs that exist within the department—I think you said there were 350 or thereabouts—

Ms Sullivan—Thereabouts, yes.

CHAIR—Are they all different in character? How many would be the same?

Ms Sullivan—They vary depending on the individual circumstances. Because we want them to be used to tailor individual arrangements, there is no set pattern that absolutely everyone has to comply with, so there is flexibility for them to be different.

CHAIR—There is no standard AWA that applies across the department?

Ms Morawska-Ahearn—No.

CHAIR—There is no standard AWA that applies across a range of employees?

Ms Sullivan—There is no forced standard that applies. You may get common outcomes from a group of similar employees, but that is not predetermined.

CHAIR—So there are AWAs that would be the same for a number of employees?

Ms Sullivan—It is highly likely.

CHAIR—They would be in different business units, different groups?

Ms Sullivan—They could be.

CHAIR—For example, could you have the same AWA applying to a secretary in one business unit and to a secretary in a different business unit within the department, or are we talking about people within a particular unit?

Ms Sullivan—There could be the same AWAs that apply to people in similar roles, but there could be differences as well. If one of those secretaries wanted to have some particular financial assistance with study leave, that person could negotiate that and include that in their AWAs; or someone might need to pick up their kids after school every day and might need to vary their working arrangements and choose to have that. So there could be similarities, but there could be differences as well.

CHAIR—When you look at the range of AWAs that apply in the department, do you take into account the APS code of values in negotiating these AWAs?

Ms Morawska-Ahearn—Absolutely.

CHAIR—How do you apply the code? I will just get you the reference on this card. It is the fourth dot point from the bottom, ‘promotes equity in employment.’

Ms Sullivan—Yes.

CHAIR—How do you see that as consistent with a variation in AWA employment provisions with employees carrying out the same work?

Ms Sullivan—Because what you have is a framework that promotes that equity, but within that you have capacity to tailor arrangements for different individuals.

Ms Morawska-Ahearn—I suggest that it probably allows even more equity because sometimes equity is not just about pay rates; it is actually about working conditions and so on. We find a lot of people take advantage of the flexibility that you can get in order to cope with different lifestyle requirements and so on.

CHAIR—I was not suggesting that it was only to do with pay rates.

Ms Morawska-Ahearn—One of the things we are doing is starting to get together a database of all the sorts of different options without saying who has taken them so that employees really can see that there is a range of things that you can do and can start to explore those options for themselves, which I think is important from an equity viewpoint too.

Senator WATSON—Certified agreements provide a range of performance pay from two per cent to 15 per cent of annual salary for staff whose performance is rated competent or superior. What is the range for staff on AWAs?

Ms Sullivan—We mentioned a little earlier on that the actual outcomes for staff on AWAs is negotiated between the employee and the manager. There is no minimum level and there is not an upper level.

Senator WATSON—Is it possible that the range could be between zero and 50 per cent?

Ms Morawska-Ahearn—In theory it is, yes, but in practice, no. Remember, we do have a high level remuneration committee that does look at all these things to make sure that we do not end up with extreme examples.

Senator WATSON—Who is on that remuneration committee? Are there any aides-memoire to ensure that that remuneration committee has to work within certain guidelines or standards?

Ms Morawska-Ahearn—Absolutely. We have terms of reference. The secretary sits on the committee. I sit on it myself as general manager, corporate. The chief financial officer sits on it too, and we rotate a general manager through. We also invite general managers to sit on that from time to time as observers to keep people abreast of things and to make sure that things are going according to the way we wish. And because we meet often, once a fortnight and sometimes more often, we really do start to get a feel across the organisation and you start to know and understand what is going on.

Senator WATSON—Do you have a team of people who make these sorts of assessments rather than just a person?

Ms Morawska-Ahearn—Yes, absolutely.

CHAIR—Are you saying that an employee in the same classification who is on a certified agreement is limited in terms of their outcome for performance pay—

Ms Morawska-Ahearn—Not at all.

CHAIR—I thought you said there was an upper level of 15 per cent?

Ms Morawska-Ahearn—There is an upper level at 15 per cent but the secretary has discretion to change that in special circumstances, and that has been done.

CHAIR—What are the special circumstances?

Ms Morawska-Ahearn—It depends on a case by case basis.

CHAIR—Why is there an upper level of 15 per cent?

Ms Morawska-Ahearn—That was negotiated in the CA.

CHAIR—How many people would fall into that category?

Ms Morawska-Ahearn—I am sorry, which category?

CHAIR—Who have got increases above the 15 per cent who are on certified agreements?

Ms Morawska-Ahearn—I would not think very many.

CHAIR—Not very many?

Ms Morawska-Ahearn—It would be on a specific case. There would need to be a specific reason, but there is no reason it cannot happen, and it has happened.

CHAIR—If there are ‘not very many’, have you got a figure that you can put on it?

Ms Morawska-Ahearn—No, I am afraid I do not have that information.

CHAIR—It is not 10, not 20?

Ms Morawska-Ahearn—I am afraid I cannot answer that, Senator.

CHAIR—You cannot answer it, or you do not have the information to answer it?

Ms Morawska-Ahearn—I do not have the information.

CHAIR—And there is no limit at all in respect of AWAs?

Ms Sullivan—There is no specified upper limit but, as Jenny said, one of the remuneration committee’s key roles is to ensure that you have soundly based and supported decisions to recommend remuneration outcomes, and also that you have fairness and equity across the organisation. So those two things would come into play to ensure that the outcomes negotiated under AWAs are not aberrant from the broader employment in the organisation.

CHAIR—Would there be circumstances in the department where you could have two members of personnel performing the same work, one on an AWA and one on a certified agreement, where the person on the AWA is getting higher performance pay remuneration than the person on the certified agreement?

Ms Sullivan—Yes, because of the different levels of performance by those two individuals.

CHAIR—No, where they are performing like for like.

Ms Sullivan—But again it is this difference between work value and performance. If they were doing the same kind of job, they would have comparable remuneration. If their individual performance were different, you could get different outcomes.

Ms Morawska-Ahearn—We have a common performance management framework. So, even though the AWA might not have any limit, we are looking at the same performance framework, using exactly the same system for both. So it should not impact in the way you are suggesting, I do not think.

CHAIR—You are saying it should not. I am asking: are there any circumstances where it has done so or it is doing so?

Ms Morawska-Ahearn—Certainly not that I am aware of.

Senator WATSON—You have just under seven per cent of staff numbers rated as satisfactory or borderline in the last report. That is based on, say, 750 employment. They are given three to six months to improve their performance. Do they all improve their performance? What is the outcome of that sort of thing?

Ms Morawska-Ahearn—There are two issues there. One is that we actually had larger staff numbers, so that percentage represents a large number of people. However, on top of that, this year we have had approximately three per cent of people rated borderline or otherwise. So, in fact, we have had quite an improvement.

Senator WATSON—A reduction, yes.

Ms Morawska-Ahearn—We would aim ultimately to have no people rated. What we do is actually work with those people to develop them and help them move to a competent rating.

Senator WATSON—How many of those people failed to lift their competency, and what happened to them?

Ms Sullivan—I do not know the detail of that.

Ms Morawska-Ahearn—We do not have that information with us. I would say—

Senator WATSON—You had 42 as borderline and eight as unsatisfactory. You say that you have specific plans and you work with managers to direct the lifting of performance to competent or better within three to six months. Obviously, the competency ratings have improved.

Ms Morawska-Ahearn—That is right.

Senator WATSON—What happened, for example, in relation to 1998-99? What were the outcomes there? Did they resign? Were they pushed?

Ms Morawska-Ahearn—Some have moved on but the majority of them have improved their performance rating. I can speak from experience with several of them, because since I joined the organisation I have had at least one person I know of in my area who was rated borderline, and that person is now a competent officer and performing very, very well as a result of a lot of good work put in by management staff.

Senator WATSON—Have you got profiles in terms of those 50? You have mentioned one person. Do you help them to get other jobs if you feel they are not really suited to your organisation?

Ms Morawska-Ahearn—Yes, of course. Yes, we do. Essentially what we do is that we work with the individual. The reason it is a bit difficult to give the broad numbers is that we do not tend to take the statistics on the numbers. What we do is work with the specific individual on a case by case basis. If it is a work based issue, we work with them to help bring them up to competent. If they make a decision somewhere along the way that this is not the organisation or the part that they want to be in, we might move them to a different part of the organisation. If they make a choice that they would like to go somewhere else, then we will facilitate that. It is basically dealing with each individual.

Senator WATSON—Do you help them sometimes to go to other places?

Ms Morawska-Ahearn—Yes, absolutely, if that is their choice.

Senator WATSON—If it is their choice, yes, but do you suggest sometimes that perhaps they would be better off doing work elsewhere?

Dr Boxall—It depends on the individual. It could well be that somebody scored borderline in DOFA, but it just may be that they are not a very good match to DOFA, or vice versa. Often those people move to other APS agencies and do exceptionally well. Ms Morawska-Ahearn is right: we can think of a number of individuals off the top of our heads who were rated borderline last year in that annual report and who have just been rated competent in the last assessment. The bottom line is that very few of those 50 people in that report—I doubt whether there are any—have had to involuntarily leave the organisation.

Senator WATSON—It is a little like special coaching for students who are underperforming at school?

Dr Boxall—It is, and in a sense it is the joint responsibility of the individual, their manager and the organisation. Sometimes they can be placed in a different area of DOFA, as Ms Morawska-Ahearn said. Sometimes they can be placed in different areas of the APS.

Senator WATSON—I am pleased to hear that, Dr Boxall.

CHAIR—How many of these people fail because their skill levels are inadequate and how many fail because they have not adequately embraced the DOFA culture?

Ms Morawska-Ahearn—We do not have that information.

Ms Sullivan—The assessment under the performance management is an aggregated outcome. We would not be able to break it down easily.

CHAIR—You must have some assessment of which is the more dominant feature that you judge people by—basic skill levels or fitting into DOFA's culture. As Dr Boxall said, they have left DOFA and gone to another department where they have been judged competent. You would have to make a judgment that they have adequate skill levels to do the particular job. There must be some other factor.

Dr Boxall—Not necessarily. It could be that they have skills that are not particularly well suited for the job that they were doing in DOFA and that those skills are better suited to another agency.

CHAIR—Can you give us an example of that?

Senator WATSON—Not by name.

Ms Morawska-Ahearn—Absolutely not. Somebody might have really good social policy skills and that could be their first love. They might be working in another area where they are managing but not value-adding. It may make more sense for them to move into an organisation that works in that area.

CHAIR—Is that a theoretical example or a practical example?

Ms Morawska-Ahearn—I think it is a practical theoretical example.

CHAIR—I will rephrase that: is it a theoretical example or a real example?

Ms Morawska-Ahearn—That is a theoretical example.

CHAIR—I will come back to this question of funding. What flexibilities do the agencies have in funding their certified agreements, AWAs or wages outcomes, conditions and remuneration?

Dr Boxall—As you would know, the portfolio budget statements provide details of the appropriations to agencies to fund the price of outputs to produce outputs to achieve an outcome. Within that price of output, agencies can mix the funding between costs of employees, overheads, such as rent and depreciation, and what have you, so agency managers do have a bit of discretion about the best mix of inputs—employees, overheads, depreciation, capital equipment, et cetera—to produce the output. They are not, in a sense, bound by rules and regulations that say they should spend only so much on employee remuneration. They can manage that to the best of their ability. I would argue that they have quite a lot of discretion.

CHAIR—How is the increased funding provided for in terms of fund increases in remuneration, whether that be in the form of wages or performance pay?

Dr Boxall—That funding is provided as part of the price of their outputs, and then they can apply it—

CHAIR—Dr Boxall, do not beat around the bush: is there additionality or has it got to be found out of your existing funding? Is there additional provision made from budget to budget for increases in remuneration?

Senator WATSON—They have got both.

Dr Boxall—There has been indexation of what used to be called running costs, which has been carried over to the new system, and there are adjustments made to the price of outputs. The price of all outputs is also subject to pricing reviews. ERC recommends to cabinet what is the appropriate level of price of outputs. It is not like it was in the old system, where there was a fair bit of structure to it and where agencies were given so much extra in order to pay wage increases. What happens now is that they may have the price of their output increased because that is considered to be appropriate and, within that framework, they can make an allocation.

CHAIR—When Mr Evans, the Secretary of the Treasury, gave evidence in response to a question, he said that one person's performance pay was another person's job: do you agree with that or not?

Ms Morawska-Ahearn—One of the basic premises with our performance system is that we get increased productivity. Certainly, for DOFA, that is not the case.

CHAIR—I am asking whether you agree with Mr Evans's statement?

Ms Morawska-Ahearn—I cannot comment on Treasury because I have no knowledge of Treasury.

Senator WATSON—There is a different culture there.

CHAIR—So it is not applicable to DOFA?

Ms Morawska-Ahearn—No.

CHAIR—You are still able to extract substantial productivity out of the system to meet your increased costs in terms of performance pay—doesn't that increased productivity mean a reduction in jobs?

Ms Morawska-Ahearn—It can also mean doing more with the same, and one of the things that we do focus on is—

CHAIR—If you are doing more with the same, it is also a reduction in jobs.

Ms Morawska-Ahearn—No, you have the same number of jobs and you achieve more things.

CHAIR—Yes, at the end of the day, the net result is a reduction in jobs. We have also heard evidence from a number of the small agencies. They have said that, from their perspective, this is squeezing them considerably. They are not able to meet the efficiencies to be able to provide for the maintenance of jobs within those small agencies, I suppose because of the nature of the way in which all agencies operate. Many of them have very little asset base. Most of their funding goes in salaries and other associated costs, but no consideration is given to their position in respect of how the current system is operating.

Dr Boxall—With regard to the budgeting, when the government makes its decision about how much money to allocate to different agencies in terms of the price of the outputs, small agencies are treated the same way as large agencies.

CHAIR—That is exactly their complaint.

Dr Boxall—The point is that means that they have the same sort of margin for manoeuvre as large agencies. They have a smaller budget but they have a smaller number of staff. They have a variation of mixes as to the percentage of their price of output that goes on salaries as do big agencies. If their price of output is inadequate to compensate their staff to do the job, they have the opportunity just like any other agency to take that up with DOFA in the first instance and the budget cabinet in the second instance.

CHAIR—Dr Boxall, we will make sure you get a copy of this morning's transcript of the small agencies. I ask you to take on board the comments that those agencies made and perhaps give us your response to their comments. There is a considerable difference and pressure upon those small agencies, which obviously has not been given due consideration in the whole process. Senator Watson has just advised me that he has to go. Unfortunately, I have got to conclude proceedings. Thank you for appearing this afternoon and for your evidence. The committee's invitation for submissions to this inquiry remains open. Any parties who have already provided submissions and would like to provide supplementary submissions should do so through the secretariat. 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 3.05 p.m.

