

# Chapter 4

## The wage freeze

4.1 This chapter considers the impacts of the wage freeze that has been imposed on Commonwealth public servants over the last two and half to three years.

4.2 The 2015 bargaining policy states that remuneration increases are to apply prospectively. In other words, the bargaining policy prohibits 'back-pay' for employees working in an agency where the previous enterprise agreement has expired and a new agreement has not been approved.

4.3 In practice, this means that for every year that employees at an agency are unable to secure an enterprise agreement, their salary does not keep pace with increases in the inflation rate, effectively decreasing in real terms.<sup>1</sup>

4.4 The prohibition on back-pay has had a disastrous impact on many lower and middle-ranking public servants who are now struggling to meet their financial commitments.

4.5 However, the prohibition on back-pay has had an insidious impact on the bargaining process because it removes the incentive for agency heads to bargain in good faith to secure an agreement. This point was highlighted by staff bargaining representatives from the Commonwealth Scientific and Industrial Research Organisation (CSIRO) who submitted:

These guidelines have removed the ability our agency had to actually negotiate. They can claim that they have little control over their position and that this is the best that they can do under the bargaining guidelines, and that offer has been strongly rejected by staff. The government has no need to negotiate as they can claim it is the responsibility of the agencies to sort out their agreements. So we are stuck after three years of non-negotiation. As you know, we do not get back pay so, as this drags on, all the costs fall back onto staff and we go backwards. We have had the over cuts to research and now it seems we are having these bargaining guidelines working as a covert savings measure.<sup>2</sup>

4.6 The committee received a raft of evidence that the interminable delays and failure of agency heads to come to an agreement with their employees was a deliberate strategy because any delay in coming to an agreement saved the agency money because staff miss out on a pay rise.

4.7 The view was also put to the committee on several occasions that the intransigent approach adopted by the government and the APS Commissioner in the bargaining policy amounted to deliberate industrial blackmail that was being used to force public servants into submission. For example Mr Esmond Smith, an employee

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1 Community and Public Sector Union (PSU Group), *Submission 196*, p. 14.

2 Mr Mike Collins, Delegate, CSIRO Staff Association, *Committee Hansard*, 15 November 2016, p. 21.

bargaining representative for Australian Competition and Consumer Commission (ACCC) staff stated that, in his view:

...the government has deliberately delayed making enterprise agreement offers in order to reduce real wages. For example, in the ACCC, the first wage offer, or offer, was put to the vote in March 2016, when the enterprise agreement's nominal expiry date was 30 June 2014.<sup>3</sup>

4.8 Mr Erik Rasmussen, a CPSU delegate from the Australian Tax Office (ATO) bargaining team stated that as an APS3 superannuation auditor in the ATO, he earned \$62 500 per year. He noted that the ATO had cut 4400 jobs over the last few years and that many of the most experienced staff had left at a time of huge reorganisation and an increasingly complex workload. Mr Rasmussen pointed out that the bargaining policy 'requires a reduction in rights and conditions in exchange for almost nothing':

You will be glad to know that tax officers can do their sums, and we see the bargaining policy as blackmail. There is no prospect of back pay so we know that the longer we say no to a cut to our conditions and a low pay offer the smaller the effective pay outcome. Really, it is a pay cut.<sup>4</sup>

4.9 Submitters like the ACCC CPSU bargaining team pointed out that the wage freeze, which has resulted from the combined effect of the stalled negotiations and the prohibition on back pay, has effectively halved the pay offer being put to staff. It has meant that a 3 year pay agreement of 2 per cent per annum, equates to an overall 6 per cent increase over 6 years, or an effective rate of 1 per cent per annum, once the impact of 3 years without a pay rise is taken into account:

Of major concern to staff is lack of any remuneration since July 2013. The Workplace Bargaining Policy only allows for pay increases of 2 per cent per year and does not allow for reimbursement for delays through back pay or sign on bonuses. This means a pay increase of 2 per cent is actually more like around 1 per cent per year. This does not even get close to covering cost of living increases. Many APS staff rely on these increases to balance household budgets and therefore are struggling financially.<sup>5</sup>

4.10 A number of employees from the Department of Immigration and Border Protection (DIBP), the ATO and the Department of Human Services (DHS) highlighted how the pay freeze was impacting their financial situations. For example, Mr David Plorer who is a Border Force Officer within DIBP told the committee:

Currently most Australian Border Force Officers are being offered a pay rise of 4.7% over 3 years but considering we haven't had any pay rise in 3

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

4 Mr Erik Rasmussen, CPSU, Australian Tax Office Bargaining Team, *Committee Hansard*, 11 November 2016, p. 33.

5 Australian Competition and Consumer Commission CPSU bargaining team, *Submission 247*, p. 2.

years this is really 4.7% over 6 years. That is less than 0.8% for 6 years — much less than the CPI.<sup>6</sup>

4.11 Several submitters and witnesses drew attention to the fact that, despite the government's failure to resolve the bargaining disputes, the government had shown no appetite for resolving matters other than by committing to an ongoing siege of attrition against its own employees. Mr Ian Reid, a CPSU Defence representative, told the committee:

I want to talk about is how our staff that I work with in my workplace feel. Our staff feel undervalued. We work really hard to provide a very professional result, but we believe we are not being consulted. We believe that we are being lied to. There was a brief at the Lavarack Barracks conducted by an SES member in relation to the bargaining after the first no vote. At that bargaining brief, I asked the SES member, 'If we vote no again, what will happen?' and they simply said, 'We will go back and vote it again.' So I asked them about consultancy, and they said, 'No, we're not doing that; we're just going back to the vote again.' So the 'attrition by siege' mentality seems to be where my superiors are coming from.<sup>7</sup>

4.12 Indeed, for many APS employees, it felt like the government was punishing them for not simply accepting pay cuts and a loss of conditions.<sup>8</sup>

### **Committee view**

4.13 There is no doubt that the prohibition on back pay during this bargaining round is an outright case of industrial blackmail designed to starve Commonwealth public servants into accepting a range of cuts to real wages and previously agreed family-friendly rights and conditions.

4.14 The prohibition on back pay effectively creates a perverse incentive for departments and agencies to prolong negotiations, because the longer pay disputes drag on, the greater the salary savings for departments which do not provide reasonable pay increases.

4.15 As a consequence, it is clear to the committee that the mass of submitters and witnesses to this inquiry are entirely correct in their view that the bargaining policy is an absolute travesty of the true meaning of consultation and negotiation. This bargaining round is best characterised as a 'take it or leave it' approach from agency management, the APS Commissioner, and ultimately, the government.

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6 Mr David Plorer, Border Force Officer, Department of Immigration and Border Protection (private capacity), *Submission 215*, p. 1. See also Mr Grant Hildyard, Centrepay, National Business Gateway, Department of Human Services (private capacity), *Submission 32*, p. 1; Ms Suzanne Hope, *Submission 132*, p. 1; and Mr Mark Gillespie, Excise Product Leadership, Indirect Tax, Australian Taxation Office (private capacity), *Submission 460*, p. 1.

7 Mr Ian Reid, Community and Public Sector Union member, Defence Community and Public Sector Union Member Representatives, *Committee Hansard*, 15 November 2016, p. 13.

8 See for example, Mrs Kelly Miller, Department of Agriculture and Water Resources Bargaining Team, *Committee Hansard*, 11 November 2016, p. 24; CPSU (PSU Group), *Submission 196*.

4.16 Indeed, the committee was told on numerous occasions that agency management told bargaining representatives and employees to their face that if they did not like an offer of a cut to real wages and a loss of previously agreed basic rights and conditions, they could simply pack up and go elsewhere.

4.17 This is shabby and appalling treatment of hard working and dedicated public servants across the APS. It stands as a shameful indictment of a cruel and callous government that it has turned its back on tens of thousands of its own workers on average and below-average incomes and dismissed their legitimate claims with comments that are not only snide and insulting, but also deliberately false and misleading.

4.18 The committee notes that the government has made very substantial savings through not paying wage rises due in 2014, 2015 and 2016. This has occurred while their employees are suffering acute financial hardship.

4.19 The committee is therefore firmly of the view that the government should amend its policy to allow agencies to provide some limited and appropriate financial recompense or 'back-pay' to employees. This is altogether reasonable given the extensive and unnecessary delays to resolution of this bargaining process, which have been caused by both the government's harsh attack on employees' rights, conditions and pay and the patently inflexible nature of the bargaining policy itself.

### **Recommendation 3**

**4.20 The committee recommends that the government urgently amend the prohibition on back pay or provide another mechanism such as a payment upon agreements commencing to allow agencies to provide some limited and appropriate financial recompense to employees who have had their wages frozen for the past three years.**