Government control and agency agreement making in the Australian Public Service under the Workplace Relations Act.

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This submission (part one of two) explores the federal coalition government's agenda to regulate the wages and conditions of its own employees in the Australian Public Service in accordance with the *Workplace Relations Act 1996* and the response of agency-level management and the principal public service trade union, the Community and Public Sector Union.

The submission is developed in the following manner. First, the former Labor government's experiment with agency level bargaining is examined in order to place the coalition government's initiatives within a broader historical context. Second, the coalition government's agenda for decentralised agency-level bargaining in the Australian Public Service is outlined, as formulated in the policy 'parameters' issued by the government and overseen by the Department of Workplace Relations and Small Business and, in particular, the requirement for the development of classification structures linked to performance management. Third, the ability of the main federal public sector union to respond at a workplace level to the government's emphasis on the 'freedom of association' principles and promotion of individual employment contracts is considered.

The methodology utilised for this submission was primarily qualitative. It involved conducting a range of detailed interviews with the various parties involved in the process of agreement – making in the Australian Public Service and the examination of documentation arising from that process. Interviews were conducted with three national industrial officers of the Community and Public Sector Union and one industrial organiser responsible for various agencies, as well as one legal officer. Some sixteen delegates of the union representing workers in ten agencies were also interviewed either individually or in groups of between two and four delegates. Six agency managers involved in the negotiating process, one industrial relations consultant and two representatives from the Department of Workplace Relations and Small Business were also interviewed. The semi-structured interviews lasted between one to two hours and were conducted between July 1998 and February 1999. In addition to these interviews, a range of documentation collected by the parties during the negotiating process and the resulting certified agreements themselves were examined by the authors.

The Labor government's experiment

The development of agency level bargaining in the Australian Public Service during the Labor government period was a reflection of the government's desire to decentralise industrial relations, without adopting the more radical agenda of the coalition parties that envisaged a reduction of the power of outside bodies such as industrial tribunals and

unions and an enhancing of management's capacity to deal with employees without 'interference' from those institutions. The Labor government sought to create a hybrid system of industrial regulation in which the 'centre of gravity' of industrial relations would be lowered, while unions and tribunals would retain some significant role in the process.

These principles were applied to the government's own employees by establishing a system that encouraged agency-level bargaining, while providing a mechanism for those employees who worked in agencies that were unable to bargain to have access to a central 'foldback' fund that would provide wage increases for those employees. While some large agencies such as Social Security, Defence and the Tax Office were able to negotiate agreements with unions, central agencies such as Prime Minister and Cabinet and Finance did not reach agreements and relied on the foldback mechanism to provide wage increases to their employees.

This hybrid arrangement lacked credibility among agency managements who were able to negotiate agreements (Department of Industrial Relations & Department of Finance 1994, Halligan et al 1996). There was resentment that agencies that had actually bargained paid twice, once to their own employees and then to employees of other agencies through the foldback mechanism. Moreover, the Community and Public Sector Union, that had reluctantly accepted the system, successfully sought its replacement with a government funded service-wide agreement in the subsequent wage round in exchange for a commitment to further devolution of personnel management in the Australian Public Service (O'Brien 1997a). Whatever can be said of the hybrid system on equity grounds, it was hardly an administratively efficient method of remunerating employees.

The Coalition Government's Industrial Relations Policy

The federal coalition government's policy agenda in industrial relations provides for the promotion of more direct relationships between employers and employees without the necessary involvement of 'outside' bodies such as industrial relations tribunals and unions (Reith 1996a). This general direction was formulated in the 1996 Workplace Relations Act that established a regime of both individual and collective agreements with employees that supplemented the traditional award and agreement system involving unions. While unions were not excluded from representing employees as bargaining agents, employers were given the option of pursuing agreements with employees directly. Awards themselves were stripped back to a core of 'allowable' matters in order to encourage employees and employers to make more enterprise-specific arrangements (McDermott 1997, McCallum 1997, O'Brien 1997b, Pittard 1997). This general policy direction was applied to the government's employees.

Moreover, the government was determined to achieve 'real' agency level bargaining without providing opportunities for some agencies to rely on any central funding arrangement beyond the normal level of wage supplementation of 1.3 per cent per annum given to all agencies (Reith 1997a, 1997b). In the budget-funded part of the public sector, reducing the involvement of trade unions is complicated by the reality that public sector environments are more likely to be unionised, although union density may differ

significantly across agencies. While there is no equivalent of an 'employer association' in the Australian Public Service, Workplace Relations and Small Business plays that role as the representative of the government as the 'ultimate' employer.

The government set out its agenda for decentralised bargaining in the Australian Public Service in a statement 'parameters for agreement making' issued to agencies (Reith 1997b). The key provision of these guidelines is that any agency level agreement must be consistent with government policy. Other principal 'parameters' were as follows:

- that agreements were to be funded within agency appropriations;
- that the accrual of sick leave and annual leave entitlements were to be portable across agencies;
- that agencies were to introduce a rationalised classification structure linked to Service-wide benchmarks;
- that flexible remuneration arrangements were to be permitted;
- that redundancy provisions were to be cost neutral to the agency;
- that all certified agreements were to provide for the making of Australian Workplace Agreements (individual contracts);
- be subject to coordination arrangements, including consultation with the Department of Workplace Relations and Small Business; and
- be subject to Ministerial clearance where significant policy issues are raised by the agreement.

The parameters for agreement making provided a specific role for Workplace Relations and Small Business to act as coordinator of agreement making in the agencies. This continued a long-established tradition within the Australian Public Service of central agency supervision of employment relationships. Since 1987 this role had been shared by the former Department of Industrial Relations, the Department of Finance and the Public Service and Merit Protection Commission. The latter had responsibilities for human resource management and development policies. The Department of Finance set the financial parameters in which the agencies operated, while the Department of Industrial Relations acted as the government's representative in bargaining and other industrial matters. It is interesting to note that the only agency specifically mentioned in the government's parameters for agreement making is the Department of Workplace Relations and Small Business, although the other two departments continue to play important roles in the lives of other agencies. The role of Department of Workplace Relations and Small Business is significant in any assessment of the degree of decentralisation of industrial relations in the Australian Public Service.

The Department of Workplace Relations and Small Business was responsible for reviewing agreements at both the proposal and offer stages. The final draft would have to be cleared by the department's staff against the government's policy parameters before agency management could put it to a staff vote. To ensure consistency, three policy sections within the department reviewed all draft agreements; pay, freedom of association and conditions (responsible for reviewing entitlements to redundancy among others). Once these policy sections had reviewed the proposed agreement, the department would

inform the agency whether the agreement met with its approval or whether changes were required to ensure it complied with the government's policy parameters. In essence, the government was somewhat nervous about devolving too much responsibility to agencies as some might not abide by government policy or retain, from the government's perspective, too close a relationship with public sector unions.

As a result, in the opinion of a representative from Workplace Relations and Small Business, the central agency's oversight role remains difficult to remove as the government is the ultimate employer and the policy parameters represent the application of the government's wages policy to its own employees. Thus, while there was considerable flexibility for agencies to vary some matters such as allowances, access to higher duties, span of hours and overtime arrangements to reflect their individual circumstances, agencies had to comply with the policy parameters set down by the department, (interview with official in Australian Government Employment, Workplace Relations and Small Business, 6 August 1998). The department's advice to agency management regarding the Workplace Relations Act 1996 states:

> Authority to make agreements now rests with agencies, within broad policy arrangements that recognise the Government's responsibility as the ultimate employer. This is consistent with the practice of other major employers. This framework balances the responsibility of an agency to conduct its own workplace relations with the requirements of public accountability of Government bodies (Department of Workplace Relations and Small Business, 1998).

Thus, there are clear limits to the devolution of employment relations in government agencies. While the heads of government agencies may be given considerable autonomy in making agency - specific arrangements, they are, in the end, agents of government, both in its roles as employer and as policy generator. This apparent contradiction was explained by likening government to a large corporation with a number of enterprises within its structure. While the corporation might allow its constituent enterprises considerable autonomy in its employment arrangements, they are formulated within the framework of overall corporate policy (Yates 1998).[1]

During interviews agency managers conceded that the policy parameters set boundaries and limits to their capacity to negotiate. For instance, the Department of Workplace Relations Workplace Relations and Small Business examined the changes to the Centrelink classification structure very carefully and expressed concern about its comparability with the Australian Public Service structure and over mobility between the two. Furthermore, the Freedom of Association provisions resulted in the department revising the Centrelink agreement to omit specific mention of the union. Centrelink management found this to be somewhat pedantic and it created some difficulties in negotiations with the Community and Public Sector Union (interview, industrial relations

[1] It is interesting to note that a previous secretary used a similar argument to justify a return to centralised wage arrangements. See D Rosalky, 'Starship Enterprise: The Next Generation', Address given to ACT Industrial Relations Society, Canberra, 10 August 1995.

manager, Centrelink, 16 February1999). Within the Department of Employment, Education, Training and Youth Affairs, management's attempts to negotiate a redundancy/retention clause of the department's Network agreement was subjected to close scrutiny by the Department of Workplace Relations and Small Business. It took some convincing by the department's management to assure Workplace Relations that the draft agreement met the cost neutral parameter (interview with industrial relations manager, Department of Education, Training and Youth Affairs, 23 February 1999).

Agency managers, however, were also able to use the policy parameters to its advantage by claiming that government policy left with no choice but to insist that particular issues be included in agreements. For example, the management negotiators in Department of Employment, Education, Training and Youth Affairs and the Australian Bureau of Statistics found the Freedom of Association policy suited their respective agendas to negotiate an agreement involving all staff and not solely with the union. Similarly, management in the Public Service and Merit Protection Commission claimed that the policy parameters were useful permitting management to say it was required to link pay to performance, an initiative it wanted to take anyway.

Thus while there was evidence of some frustration arising from central oversight by the Department of Workplace Relations and Small Business, the parameters were not perceived as overly prescriptive by agency management who were largely able to pursue their own agendas. Some agency managers were confidant that the Department of Workplace Relations and Small Business would be less interventionist in the second round of agreement-making (interviews with managers with responsibility for industrial relations: Centrelink, 16 February 1999; Department of Education, Training and Youth Affairs, 23 February 1999; Public Service and Merit Protection Commission, 17 February 1999). Others expressed hope, rather than great confidence, about this issue (Interview with senior manager, Australian Bureau of Statistics, 24 February 1999; Interview with senior manager, Centrelink, 25 February 1999).

Performance based classification structures

One of the specific objectives of the government was to introduce a rationalised classification structure linked to performance management arrangements. While agency managements were to have some autonomy in the implementation of new classification structures, the government insisted that all agencies had to replace the almost automatic movement of staff through incremental ranges, with movement based on some measure of performance. So while the agencies had some scope to develop agency-specific measures of performance, there was no opportunity to maintain the system of incremental movement that had long characterised the career structure of the Australian Public Service.

In this sense then, the government, acting as the ultimate employer, was defining the boundaries of performance management to be implemented by its agents. The provisions were designed to strengthen both government and agency managerial authority over their employees. While there was considerable procedural diversity among agencies, the

substantive government objective of enhancing managerial authority was enforced in centralised manner.

Agency management perceived the linkage of classification structures to performance management as being central to a cultural change process that emphasised linking individual work performance to the achievement of agency business plans (interviews with senior managers, Australian National Audit Office, 23 February 1997 and Australian Bureau of Statistics, 24 February 1999). The Secretary of the Department of Finance and Administration, Peter Boxall, for instance, strongly believed that the performance management system represented an integral part of a cultural change process whereby staff would be required to demonstrate that they were 'can do' people with a 'will to win' and a willingness to 'go the extra mile'. Boxall had a clear view about the direction of the agency, but it fitted comfortably with the overall thinking of the government (Heaney 1998). Indeed Boxall was subsequently identified by the government as one of the best performers among agency secretaries. If Department of Finance and Administration employees, in effect, were committing themselves to this cultural shift, performance bonuses of between two and fifteen per cent were available (interview with union delegates, Department of Finance and Administration, 21 July 1998).

The Community and Public Sector Union's survey of members regarding performance management (1999), however, highlighted that not all employees at Finance and Administration were convinced by the new approach to performance assessment:

> 'DOFA's performance appraisal system sucks (sic). Management said there would be no quotas however there were quotas imposed. Our whole branch's ratings were downgraded. I know of other areas where supervisors rated their staff competent only to have those ratings moderated to borderline or unsatisfactory. In fact our branch was told (not publicly) that with X number of people they (management higher up) would expect Y number of 'unsatisfactory' staff! How can you trust a system like that?' (Senior Officer, Department of Finance and Administration).

Moreover, the distribution of performance rewards was likely to be constrained by budgetary arrangements as well as managerial policy. The Department of Foreign Affairs and Trade had completed a short performance appraisal and pay cycle by August 1998. When comparing the performance ratings of the total of senior executive service officers and other officers in the department, the degree of consistency in the ratings is remarkable. This uniformity in the spread of ratings was evident in all eleven divisions of the department (Department of Foreign Affairs and Trade 1998). Union delegates postulate that the ratings were deliberately moderated by senior management to fit within a neat bell-curve distribution for budgetary reasons (interview with union delegates, Department of Foreign Affairs and Trade, 12 August 1998).

Table 1. Performance appraisal rating scores in Department of Foreign Affairs and Trade

Category_	Unsatisfactory_	Satisfactory_	FullyEffective_	Superior_	Outstanding__
Senior executive service_					
	0%_	12%_	60%_	25%_	3%__
Non-senior executive service_					
	1%_	13%_	61%_	24%_	2%__

(Department of Foreign Affairs and Trade 1998).

In contrast, within Prime Minister and Cabinet the union undertook a survey of staff on their views on performance management. This highlighted that an overwhelming majority of staff, 73 per cent, was opposed to performance pay while 75 per cent were in favour of rolling the performance bonus into the overall pay rise to be contained in the agreement. In the light of this survey evidence, management dropped its previous insistence on performance bonuses and agreed to roll the pool of money available into the agreement (interview with union delegate, Department of Prime Minister and Cabinet, 16 July 1998). Moreover, within the large service agency Centrelink, with a significant level of union organisation, a commitment was made to develop a performance management system during the life of the agreement without any particular model being given privileged status in the ongoing discussions between the agency management, the Community and Public Sector Union and employee representatives (Centrelink Agreement 1998; Gepp 1998). Nevertheless the management was satisfied that a solid framework had been created for a more conscious shift towards a performance-based pay system in the agency (interview with senior manager, Centrelink, 25 February 1999).

It was commonplace for a performance rating scale to be used in the appraisal of staff. Within the Public Service and Merit Protection Commission, for instance, the performance management system appraises staff against a three level rating scale ranging from 'unsatisfactory' (which can trigger inefficiency measures) to 'satisfactory' (resulting in a moderate increase in pay to the employee's base salary) and 'superior' (which effectively doubles the increase in base salary). In the first round of operation the management allocated very few 'superior' ratings, resulting in some conflict between management and employees (interview, manager, Public Service and Merit Protection Commission, 17 February 1999). The Community and Public Sector Union's booklet on performance management (1999) also documented staff concerns over management's reluctance to allocate the highest scores on the rating scale, with the exception of some favoured 'high flyers' and, indeed, of senior managers themselves:

> 'A rating of 1 (outstanding) is not allowed to be issued, except to 3rd and 4th level managers - top bonuses only for the senior management group. I have had a rating of 1 knocked back by senior management. If the scale is 1-5, then everyone should be able to score a 1 (outstanding), if the parameters are clearly stated, and their performance meets the requirements. There is a universal lack of positive feedback and acknowledgment of successes - achievement in a vacuum.' (Anonymous cited in Community and Public Sector Union 1989).

Of all the objectives of the government this provision goes to the heart of management control. The Labor government had previously attempted to create a more specific link between pay and performance without interfering with the service-wide classification structure. The philosophical underpinnings of the system were criticised by the Senate Committee on Finance and Public Administration (Senate Standing Committee on Finance and Public Administration 1993). In addition, the Audit Office had been critical of its implementation, although supportive of the concept (Golightly and Major 1993). There was also wide concern within the public service, at both management and staff levels, about the system (Halligan et al 1995). Performance-based pay was found to be highly subjective, with the largest performance bonuses going to staff working in 'high-profile' areas and those perceived as 'favourites'. The friction caused by the subjective allocation of ratings by supervisors and the revision, often downwards, of initial performance assessments by more senior management, (in many cases with little or no knowledge of an individual's actual work performance), was found to undermine employee motivation, workforce morale and team cohesion (O'Donnell, 1998: 38).

Clearly, the shape of any classification system will reflect the power relationships between employees and management as well as the nature of the managerial agendas within particular agencies. The government will have achieved its overall objective as employer in establishing classification arrangements linked to performance, without necessarily being able to impose a particular managerial culture or detailed implementation arrangements on all agencies. Nevertheless the differing power relationships in the various agencies permit the establishment of managerial 'beachheads' that are able to be used as 'cultural' exemplars in subsequent negotiations with employees and unions.

Union response in the APS to the 'Freedom of Association' principles of the Workplace Relations Act 1996

Managerial authority, however, could be strengthened considerably by the 'freedom of association' provisions of the 1996 Workplace Relations Act. Traditionally unions played a central role in the award system, as well as the certified agreement regime established under the Labor government's 1993 Industrial Relations Reform Act. Although there is some argument about whether the guaranteed role of unions in the Australian Industrial Relations system strengthened or weakened unions (Howard 1977), there was little scope for managements to avoid dealing with unions under the pre-1996 arrangements. The Workplace Relations Act provided for agreements with unions or with employees without any guaranteed role for unions in the process. In the Australian Public Service, the government made it clear that the public service unions would lose any privileges that did not accord with the freedom of association provisions of the Act. Indeed the freedom of association provisions could be regarded as the most significant of the government' procedural objectives in dealing with its own employees (Yates 1998).

A change in the preference of agency management for non-union agreements was evident when the Department of Workplace Relations and Small Business negotiated an agreement with the unions instead with the staff directly. Initially the agency's management attempted to establish a process for consultation for non-union members and

expressions of interest were invited from staff. A number of union members registered their interest. This created a dilemma for management, particularly when it was advised that freedom of association provisions precluded the exclusion of union members from the process. The management then reverted to negotiating with the unions, which resulted in an agreement with them, rather than with employees. The negotiation of a union agreement in the highly unionised Department of Workplace Relations and Small Business (McEvoy 1997) was a signal to other agencies that dealing directly with the union was an acceptable course of action (Heaney 1998, Gepp 1998). While some agency managements pushed hard to minimise union involvement, the failure of Workplace Relations management to negotiate an agreement with its employees directly, gave permission to other agencies to deal with unions without pressure being applied by the agency responsible for overseeing the process (Heaney 1998; Gepp 1998). Indeed Workplace Relations and Small Business advised other agencies that even-handed treatment of unionised and other employees was sufficient to meet the 'freedom of association' requirements of the government's parameters for agreement making (interview with manager, Department of Workplace Relations and Small Business, 6 August 1998).

On the whole, workplace union delegates across a range of agencies reported that union officials were able to enter workplaces and consult with them without having to provide notice. When conducting union meetings, the union would, out of courtesy, inform management. Trade union delegates continued to have access to internal agency communication systems, such as e-mail, to communicate with members. While agency managements were informed that any provisions made for union work within workplaces were to be removed, in most cases this amounted to little more than designating union facilities as 'staff' facilities (Colmer 1998). Broadly speaking, facilities were not withdrawn, and if they were, as occurred at Centrelink early in the negotiating process, it was for only a brief period (interviews with union delegates, July/August 1998).

Changes that have occurred, however, include the abolition of full-time trade union positions paid for by the agency (Foreign Affairs and Trade). At a workplace level, the union has been preparing contingency plans in the event that facilities could be withdrawn by management. Workplace union organisation within Centrelink continued to communicate with its members for legitimate union business using the internet linkage between the national office in Canberra and branches, e-mail and lotus notes. If facilities were ever taken away by management in response to the union not acting 'responsibly', each area councillor of the union had a phone tree of delegates in place for whom they were responsible. Councillors and delegates also had private e-mail systems in place to discuss politically sensitive issues (interview with union delegates, Centrelink, 22 July 1998).

An emerging issue is the role of union officials in the implementation of agreements. The Department of Foreign Affairs and Trade management was determined that this would be the responsibility of elected staff and union representatives (interview with senior manager, Foreign Affairs and Trade, 25 February 1999). The union official responsible for the agency has been marginalised by denying her access to staff – management

implementation committee meetings. Generally unions are is now required to establish it legitimacy both with their own members as well as agency management. The guaranteed access of the Labor period is no more. In the new legislative context management desire to exclude or marginalise the union is legitimised as an acceptable tactic, even if its exercise is contested in many agencies.

A rough indication of the degree of union influence can be gauged in the number of agencies that made agreements with unions compared with those made with employees directly. By October 1998 some 36 agencies had agreements with unions and 37 agencies with employees directly. The union agreements, however, covered 73 per cent of Australian Public Service employees (Community and Public Sector Union 1998).

Generally speaking the more highly unionised (usually the larger) agencies were able to insist on union agreements. As the pattern of agreements began to emerge there was less pressure on agency managements to push for agreements with employees. Indeed one consultant involved widely in workplace agreement processes described the latter stages as 'photocopying' bargaining where both management and union / employee representatives would simply lift provisions from agreements made by other agencies (Heaney 1998). Moreover, negotiating with a union is a less administratively complicated process than establishing complex consultation mechanisms with employees, although some agencies are prepared to do this to minimise union influence.

The provisions covering both agreements with employees and with unions require that the employer demonstrates that an agreement has the support of employees affected by it. This was met by submitting agreements to staff ballots and achieving a simple majority of those who voted. This provision meant that managements had to take action to convince employees of the acceptability of any agreement, while unions had to ensure that non-unionised employees did not undermine union agendas. In the Department of Foreign Affairs and Trade, for instance, senior managers personally visited a number of larger overseas posts to explain the agreement (interview with senior manager, Department of Foreign Affairs and Trade, 25 February 1999). The union was confined to using less personal forms of communication.

Where agency management sought to negotiate with staff representatives and not solely with the Community and Public Sector Union and other unions, the union's delegates established coalitions of both staff and union representatives. Although it was not unusual for initial tensions to surface, a close working relationship involving regular caucuses to establish a common position and joint staff-union meetings was evident in a number of agencies (Audit Office, Prime Minister and Cabinet). This approach was viewed by delegates as portraying the union as willing to listen to the views of all staff and of being representative of their interests (interview with union delegates, Prime Minister and Cabinet, Audit Office, 16 July 1998).

In the Department of Finance and Administration and Foreign Affairs and Trade, however, union opposition was insufficient to persuade staff to reject the agreement (Pollard 1998), although in the latter case the affirmative vote was only 61 per cent of

staff (interview with Senior Manager, Department of Foreign Affairs and Trade, 25 February 1999).[2] Nevertheless the process is a two edged sword for the union. The loss of bargaining monopoly by unions can present an opportunity for them to incorporate non-union staff in union strategies. It also can present recruiting opportunities if unions are seen as operating effectively (Colmer 1998), although there is little evidence as yet of a significant increase in union membership. On the other hand, it has been suggested that some staff representatives are former union members who have lost faith in the capacity of unions to represent their interests (Heaney 1998). Moreover, the interests of relatively lowly graded staff in large service agencies do not match necessarily the interests of more senior managers located in policy agencies (interview with delegates in Employment, Education, Training and Youth Affairs, 23 July 1998). Moreover, with membership concentrated in the larger agencies, the union is reliant on the relative good will of agency managements to maintain a significant presence (interview with senior manager, Centrelink, 25 February 1999). The more contestable and decentralised regulatory regime can provide opportunities for managements to divide and rule their staff, while unions are no longer able to use service-wide arrangements to force agencies with low union membership to accept union agendas.

Individualising employment relationships

The system of industrial regulation established in the 1996 Workplace Relations Act has both collective and individualised aspects. The latter mode of regulation is represented by Australian Workplace Agreements. Agency managements are precluded from opting for an exclusively collective mode of regulation for government employees. Members of the senior executive service had been subject to individualised employment arrangements in the form of performance contracts since 1987. Performance-based pay had also applied generally in the senior executive service and among the senior officer grades. Senior Officers in many agencies had rolled their performance bonuses into the agency wide wage pool under the Labor government's model of agency bargaining (O'Brien 1997, O'Donnell 1998). Nevertheless, these individualised arrangements have been overlaid by service-wide provisions in the form of awards and public service regulations and determinations. There had not been a fully developed model of individual employment contracts in the Australian Public Service before the Coalition legislated for Australian Workplace Agreements and insisted that all members of the senior executive service would be so regulated.

In addition, the government insisted that all certified agreements covering non-senior executive service staff must permit the making of individual contracts in the form of Australian Workplace Agreements, precluding the opportunity for agency managements and employees and their unions to agree to maintaining exclusively collective employment arrangements. Not only was the government using its own employees as a means of enforcing its own policies, but potentially at least, it was creating a situation

[2] This is low by the standards of most agencies. Moreover, the vote for the agreement in this agency barely reached 50 per cent in the Canberra office of the agency. There was much higher vote among overseas posted employees many of whom were briefed by agency management without the union having direct access to them.

whereby the management of any agency might either separate the regulation of employment arrangements for managerial staff more explicitly from those of non-managerial employees or perhaps individualise all employment relationships altogether. Even if the latter path was not chosen, the performance-based pay and classification system that the government insisted should apply in all agencies ensured that a considerable degree of individualisation of employment relationships has become embedded in the structure.

The most significant use of Australian Workplace Agreements occurred in Employment National. As part of a wide-ranging program of changes to labour market programs, the government abolished the Commonwealth Employment Service and created a new government-owned company, Employment National, to compete with private agencies in the provision of services to the unemployed.

In this more marketised environment, the government insisted that employees of the government company should operate with pay and working conditions arrangements that were equivalent to those said to be prevailing in the private sector employment services market. Although some discussions were held between the union and the Employment National management about the development of a certified agreement, the management decided that Australian Workplace Agreements were the most appropriate form of regulation for the employment services market. The regulatory arrangements are currently subject to a Federal Court hearing with the Community and Public Sector Union arguing that Employment National employees transferring from the Commonwealth Employment Service were effectively given no real choice about accepting an Australian Workplace Agreement (Ramsay 1998).

In February 1999 the Australian Industrial Relations Commission granted an employer application for an award to be established for Employment National employees who are not on individual contracts. This award provided for a minimum set of employment conditions permitted under the 'allowable matters' provisions of the Workplace Relations Act. Significantly this award did not include long standing Australian Public Service provisions such as paid maternity leave and increased the standard working week from 36.75 to 38 hours (Australian Industrial Relations Commission, 1999; Colmer 1999).

While the employees of Employment National are no longer members of the Australian Public Service, there is a concern that the measures taken to regulate the employment conditions in that agency could be replicated in core Australian Public Service agencies that provide services in a market environment. This could be achieved by outsourcing existing government functions to the private sector. For instance, there were concerns that the telephone-based service functions within Centrelink could be outsourced to private sector call centres that have average labour costs that are significantly lower than those prevailing in the government agency, or at least this scenario could be used as a threat to drive down labour costs while maintaining it as a government operation (Gepp 1998). In November the government announced that Centrelink staff would be reduced by 6000 in the next three years. Downsizing seems in this case to be preferred to contracting out (Lagan and Horin 1998).

Agency management used Australian Workplace Agreements to extend individual contracts beyond the senior executive service to include those at the top of the senior officer classification and for areas of particular labour market pressure such as information technology. The major difference between Australian Workplace Agreements and the certified agreements was the former's more concerted focus on individual employee performance and potentially more lucrative performance bonuses (interviews with managers responsible for industrial relations: Centrelink, 16 February 1999; the Department of Education, Training and Youth Affairs, 23 February 1999; Public Service and Merit Protection Commission, 17 February 1999; the Audit Office, 23 February 1999).

Within some Australian Public Service core agencies, such as the Department of Finance and Administration, there remains a significant push by management to offer all staff Australian Workplace Agreements. Senior management within this agency has distributed a paper extolling the virtues of Australian Workplace Agreements, stating that they are consistent with the new senior management-driven culture and that if staff were 'aligned' with the culture they should be willing to sign an agreement. Management was also using the evident disaffection of the staff with the outcome of the certified agreement, to push for Australian Workplace Agreements. By July 1998, some twenty-six per cent of some 1,300 staff had accepted such agreements (Blackwell 1998). The difference between the certified agreement and Australian Workplace Agreements was the latter's more substantial performance pay bonus of up to twenty-five per cent of salary. Under the certified agreement the maximum performance bonus payment was 15 per cent (interview with union delegates, Department of Finance and Administration, 21 July 1998).

Within the Department of Workplace Relations and Small Business, union delegates had received a commitment from the secretary that the union would be informed should Australian Workplace Agreements be extended beyond senior executive service level staff (interviews with union delegates, Centrelink, Employment, Education, Training and Youth Affairs, Workplace Relations and Small Business, July/August 1998). The private nature of Australian Workplace Agreements, however, makes it difficult to mobilise against them even if the union is informed that they will be offered to staff. Nevertheless a group of about 30 middle ranking employees in the Department of Employment, Workplace Relations and Small Business publicly rejected the offer of a Workplace Agreement made by the department secretary, Peter Shergold (Marris 1999).

Paying for it all

One of the reasons for the establishment of the hybrid system by the Labor government was that not all agencies would be in the position to make sufficient productivity gains to cover the cost of wage adjustments. The 'foldback' mechanism was developed to provide wage increases for employees in agencies where productivity gains were difficult to make, either because the agency was too small or its prime product was policy advice rather than the provision of services or the collection of revenue (O'Brien 1997).

The Coalition specifically rejected the notion that some agencies could be exempted from the responsibility of funding wage increases for its employees (Reith 1997b). To this end it continued the provision of supplementation of 1.3% per annum to cover the cost of safety net adjustments of wages. In addition it eased the stringency of the efficiency dividend extracted from agencies by the former Labor government. While there had been complaints by some agencies during the previous administration that wage increases could not be met, this was not a major complaint during the Coalition government's first wage round (Yates 1998).

This can be partly explained by the savings that had been made as a consequence of the significant downsizing of the Australian Public Service that took place in the first 18 months of the government. It was still the case that productivity-based wage increases in budget funded agencies would continue to be met primarily through staff losses and an intensification of the work of the remaining staff. For instance, the Public Service and Merit Protection Commission agreement was estimated to cost some 3 per cent per annum and the extra cost of the agreement above the 1.3 per cent had to be met through internal funds. This effectively meant staff cuts and involved cutting back on the number of temporary staff and staff on secondment whose numbers were considerably reduced for the 1998/99 financial year. Similarly, Centrelink had to pay fund the pay increase contained in the agency agreement from its own resources. To protect jobs, the agency had to either obtain new business or do the same amount of work that they have been contracted to provide for less (interviews with managers responsible for industrial relations: Centrelink, 16 February 1999; Public Service and Merit Protection Commission, 17 February 1999). Contracting out of 'non-core' functions was also seen in Centrelink as a possible means of affording future pay rises (interview with senior manager, Centrelink, 25 February 1999).

The relative uniformity of wage outcomes across the Australian Public Service was, moreover, as much a product of managerial policy as it was of union capacity. Agency managements were keen to minimise disparities in wage outcomes across agencies in order to be able to offer comparable wages for similar work being performed in various agencies.

Conclusion

The government placed considerable responsibility upon its own agency level managerial agents to pursue the overall policy objectives of government, with the Department of Workplace Relations and Small Business acting as the government's supervisory agent. But the policy direction requires that its managerial agents possess a sufficient measure of operational autonomy in the process of agreement making. While agency management expressed some frustration with interference by Workplace Relations and Small Business, these managers did not perceive such intervention as excessively constraining their ability to pursue their own agendas.

Moreover, the government's managerial agents were actively engaged in a process of cultural change involving the use of performance appraisal linked to revised classification

structures. There was some evidence of staff discontent with the subjective nature in which performance ratings were being allocated and the perceived lack of fairness of the performance management process overall (these points are expanded upon in the second part of the submission).

There was also increased reliance by agency management on Australian Workplace Agreements: they were used mainly for senior managers and employees in information technology; although some agencies, such as Finance and Administration, were attempting to convert all employees to individual contracts. Union-based collectivism was also being fractured by management's insistence on negotiating with non-union staff representatives in many agencies. The funding of the initial round of certified agreements largely out of agency budgets resulted in job cuts and increased workloads for remaining employees in a number of agencies.

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