



Submission

**To the Senate Finance and Public
Administration
References Committee
Inquiry into
Recruitment and Training in the APS
by the
Community and Public Sector Union
(PSU Group)**

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Executive summary

1. Individual Training Agreements (ITAs)

A recent CPSU survey of APS staff indicates a number of issues relating to Individual Training Agreements (ITAs). These include:

- 85% of respondents reporting they received less training under ITA arrangements than before their introduction to the workplace;
- Survey data suggests a large segment of APS staff believe that ITAs are often little more than paper exercises that lack validity;
- Emerging evidence that a greater proportion of the cost of training and education are being born by individuals, or, an increasing percentage of the cost of training and education is being shifted to previous employers.

It is problematic for an Agency to be implementing changes to HR strategies, including employee training, at the same time that major changes for HR functions is being considered.

2. Graduate Recruitment & Indigenous University Students

A significant number of respondents to a survey of Graduates (36%) reported that their level of work was inconsistent with their skills. Of even more concern is the very high response rate (64%), of respondents who reported that they had considered leaving the APS. As the APS Graduate Program represents a considerable investment by agencies in terms of both time and money there should be closer and more ongoing scrutiny of the administration of agency programs.

The CPSU notes with concern the APSC conclusion that if the trend of higher proportions of Indigenous Australians in separations than in engagements continues, the representation of Indigenous Australians in the APS will continue to decline. The CPSU has identified an apparent lack of transparent data and analysis relating to the operation and success rates of APS National Indigenous Cadetship program

3. Non-ongoing employees

A recent Australian Industrial Relations Commission decision allowed 178 non-ongoing Defence employees to be made ongoing employees. The case has implications for the application of the merit principle and highlights the manner in which non-ongoing employees are treated by agencies. It also points to the need for more comprehensive employment statistics to be made available for public scrutiny on all forms of APS employment, including the use of agency hirees and contract staff and the operation of relevant sections of the Public Service Act 1999.

Evidence is emerging that recent outsourcing of agency human resource units create specific training and operational issues relating to knowledge and accuracy on specific legislation and related entitlements.

There is an emerging risk that private companies providing HR services to APS agencies will not have the capacity to accurately process APS HR data and provide relevant APS HR advice.

Summary of recommendations

1. That APS agencies be required to report to the APSC details of expenditure on learning and development.
2. That the Senate Finance and Public Administration References Committee considers further examination of information from APS agencies using Individual Training Agreements about the level of support provided to employees and managers to develop such agreements by agency HR services.
3. That the Senate Finance and Public Administration References Committee considers examining information from APS agencies on the impact of the market testing of HR services on agency training and development programs.

4. That the Senate Finance and Public Administration References Committee considers further investigation and analysis, by the APSC, of current strategies to advertise and promote the Graduate Program.
5. That the Senate Finance and Public Administration References Committee considers examining recommended strategies from the APSC on strategies to improve the retention of Graduates.
6. That the Senate Finance and Public Administration References Committee considers examining APS Agencies on the trends for the number of National Indigenous Cadet Project participants (cadets) within their agency.
7. That the Senate Finance and Public Administration References Committee considers examining advice from the APSC on the implications of the recent AIRC Defence decision for APS non-ongoing employees;
8. That the Senate Finance and Public Administration References Committee further examine an immediate interim report by the APSC on the use of agency hirees (non-APS employees); and
9. That the Senate Finance and Public Administration References Committee considers examining a report by the APSC on options to enable New Apprentices to be initially engaged as on-going employees.
10. That on employment non-ongoing APS staff be made aware, in plain English, of their rights in relation to circumstance in which non-ongoing staff can be employed, the length of their initial term, the circumstances when an extension can be granted and the maximum total term of employment.

Introduction

The Community and Public Sector Union (PSU group) (CPSU) is pleased to have the opportunity to contribute to the Senate Inquiry into Recruitment and Training in the Australian Public Service (APS).

The focus of our submission is on individual training plans, graduate recruitment and non-ongoing staff. The CPSU will rely on evidence gained from surveys of APS employees and relevant Australian Industrial Relations Commission (AIRC) matters.

It is not our intention to respond to all of the issues raised in the terms of reference for the Committee's Inquiry.

CPSU (PSU group) coverage

The CPSU is a federal union with Regions and Sections in each State and Territory.

The CPSU (PSU Group)'s coverage is predominantly in the federal public sector, but also includes the ACT and the Northern Territory Governments as well as public and private sector employers in the communications, aviation, broadcasting, and pharmaceutical industries.

Our members include people doing work in the areas of administration, sales, engineering, communications, information technology, technical, scientific research, broadcasting, and many others.

Within the APS, CPSU membership reflects the diversity of professional, technical, managerial, administrative and general occupations.

The CPSU is very active in representing the industrial interests of our members under the *Workplace Relations Act 1996*. Our union is party to over 100 Federal awards and nearly 200 current certified agreements.

CPSU offices are located in every capital city as well as Newcastle and Townsville.

Previous CPSU submissions on APS recruitment and training

The CPSU has demonstrated¹ a sustained commitment to ensuring the view of APS employees on recruitment and training are reliably and comprehensively put forward.

Concerns about the capacity of the Australian Public Service Commission (APSC) to collect data, and monitor training and recruitment, have been raised since 1992. The CPSU has repeatedly highlighted the need for a highly skilled APS workforce, that is committed to quality service provision, with training and career paths to retain and motivate employees, and that places limits on the use of temporary and contract labour. The link between the skills required to perform required functions and a clearly defined staff development strategy has also been repeatedly been highlighted. In addition the CPSU has continued to stress that the capacity to implement change is driven by strategic training programs.

The CPSU has called for comprehensive staff training strategies, with associated delivery and resources, to ensure that Australians receive high quality advice and service from Government agencies. Concerns have also been raised that at times the stated APS Human Resources (HR) policy is inconsistent with the experiences of employees of the HR practices of agencies.

¹ PSU, *Submission to the Joint Committee of Public Accounts Inquiry into Human Resource Management in the Australian Public Service*, June 1992.

PSU, *Submission to the Standing Committee on Banking, Finance and Public Administration Inquiry into the Efficiency Dividend Arrangements*, October 1993

PSU *Response to the Conroy Review of the Australian Customs Service*, March 1994.

PSU, *Submission to the Senate Finance and Public Administration References Committee Inquiry on Service Delivery by the Australian Public Service*, February 1995.

CPSU, *Submission to the Inquiry into Older Workers*, September 1999

CPSU, *Submission to the Senate Finance and Public Administration References Committee Inquiry into APS Employment Matters*, 30 September 1999.

CPSU, *Submission to the Independent review of breaches and penalties In the social security system*, November 2001.

1. Individual Training Agreements

In an audit² of **Centrelink** the Australian National Audit Office (ANAO) assessed whether **Centrelink** had the systems and strategies in place to ensure Centrelink Customer Service Officers had the skills and knowledge necessary to meet expected levels of performance and customer service. The ANAO noted that **Centrelink's** Annual Report 1999-2000 indicated that 86% of its staff had completed Individual Learning Plans (ILPs). However, the ANAO found that a large proportion of the 93 Customer Service Officers interviewed did not have a current ILP. In addition the ANAO found that the planned analysis of ILPs at a national level was not being done as a result of gaps in reporting. **Centrelink** did not have comprehensive, national access to 'bottom up' data on their Customer Service Officers' training needs.

Certified Agreements requirement for ITAs

APS Certified Agreements are increasingly requiring the making of an Individual Training Agreements (ITAs) a requirement of all employees covered by the Certified Agreement.³ These provisions typically require the development of a signed written training plan between the manager/supervisor and the employee. Such agreements are referred to as Career Development Agreements in the **Department of Education Science and Training**, Individual Learning Plans in **Centrelink**, and Individual Development Agreements in the **IP Australia**.

The Certified Agreement provisions include ITAs as a key element of the agencies' individual performance management schemes.

² Australian National Audit Office, *Learning for Skills and Knowledge – Customer Service Officers Centrelink Performance Audit*, No.9 2001-2002, pp12&19.

³ *Securing Our Future - DETYA Certified Agreement 2000*, clause 14.4.1.2-12.4.1.4.

Centrelink Development Agreement 1999-2002, clause 37

Department of Family and Community Services Certified Agreement 2002 to 2005, clause 15.

Public Service And Merit Protection Commission Certified Agreement 2000 – 2003, clause F9.

IP Australia Agency Agreement 2000-2002, clause 60.

DEWR CA 2000 – 2002, clause 19.

National Library CA 2002-2004, clause 37.

Department of Immigration and Multicultural Affairs Certified Agreement 2001-2004, clause 2.1-2.10

AGSO CA 2000 – 2002, Learning Agreements clause.

CPSU Individual Training Agreement Survey results

The CPSU conducted a survey of APS employees who were required to have an Individual Training Agreement (ITA) – one hundred and thirty respondents replied with the following profile 59% female, 60% aged 36+, 55% classified APS1-6, and 60% working in the ACT.

Of the 130 respondents 88% had an ITA in place. Reasons for the remaining 12% being without an ITA included practical considerations such as being on a temporary transfer or acting in another position, but also a lack of commitment from management to staff development and training. Work demands were cited as contributing to the inability to have a plan in place:

“... office is under resourced ... there is never enough time.”

Despite 88% of respondents having an ITA the implementation of previous plans was varied (detailed in Table One).

Percentage of last ITA completed (%)	0	25	50	75	100
Responses:	25%	16%	28%	15%	15%

Table one - Percentage of last ITA completed

In addition 85%, of respondents reported receiving less training under ITA arrangements than prior to the introduction of ITA's.

The level of support given to individuals for the development of their ITA was assessed through a series of questions in Table Two.

Question	Yes	No
Did you receive training on how to develop an ITA?	50%	50%
Did you receive training on linking your ITA to the Business Plan?	39%	60%
Do you have access to comprehensive Agency guidelines?	65%	35%
Did you receive training in your agency's work level standards?	62%	36%
Did you receive assistance from your agencies HR area?	33%	67%

Table Two – Level of ITA support given to individuals

Only 50% of staff had received training on how to develop ITAs and only 33% had received support from their Human Resources (HR) area. While the majority (65%) had access to comprehensive guidelines on how to develop ITAs, only 39% had received training on how to link ITAs to business plans.

The outcomes of ITAs were reported via a self-assessment against both performance and career benefits and are detailed in Table Three and Four.

What has been the impact of the ITA on your performance?			
Level of improvement:	None	Some/minor	Large/major
Percentage of responses:	49%	56%	5%

Table Three: Impact of ITA on performance

What has been the impact of the ITA on your career?			
Level of benefit:	None	Some/minor	Large/major
Percentage of responses:	61%	34%	5%

Table Four: Impact of ITA on career

Respondents were asked:

“How confident are you that your agency's ITA scheme delivers the training and skills development that is needed by employees?”

Despite 88% of respondents having an ITA, 54% of respondents reported that they were, 'not confident' that the ITA scheme would meet this objective, with 37% reporting that they were somewhat confident and only 8% reporting they were very confident.

Respondents were asked to list positive and negative aspects of their ITA scheme. These are summarised below.

Positive aspects of ITAs included:

- The requirement for individuals to be responsible for the identification of their own training needs;
- The requirement for local managers to have a direct involvement in the development of their staff's training plans was also supported;
- The formalisation of the requirement to discuss development needs with a supervisor and receive regular feedback was seen as a benefit;
- The creation of a written individual record of training was seen as a positive;
- It was reported that it made it easier to get funding for courses through having an agreement with the supervisor in the ITA;
- ITAs were seen by one respondent as an opportunity to link training to broader business plans while at the same time linking training to current job needs; and
- Some respondents believed that their ITA would create employment opportunities for them.

One particularly positive comment appears to link a positive experience to their agency's training in the new ITA program:

"It is clearly articulated and all staff have recently been trained in the new program. The general feeling about it is very positive. I think it facilitates a more transparent and articulated relationship between supervisor and staff member."

The benefits for service delivery are clearly highlighted in the comment:

“Recognition of the need for highly skilled staff to ensure high quality services are provided both internally and externally ...”

Negative comments highlight:

- Respondents’ experience of their ITA being meaningless due to a lack of staff preparation and planning;
- The scarcity of training budgets was also seen as a major problem as was the scarcity of time resulting from excessive workloads;
- The lack of commitment by management to ITAs was identified as a major concern of respondents;
- Lack of support to individuals in developing their plans was identified as problematic including the lack of information on available training;
- The inconsistent application of the standards of work expected for employees at the same level within an agency was identified as one particular problem; and
- The lack of a formal training needs analysis.

One respondent stated:

“The Agency tends to come up with huge amounts of ideas for improving the business ... too many at one time ... too chaotic ... not resourced properly and all rushed at once - this adds to unbearable levels of stress in the workplace.”

The lack of confidence in the schemes is evidenced by two statements:

“No-one takes them seriously. No-one acts upon them. They are only there so the Agency can say they exist” and

“... gives the Senior Executive an unreal expectation that training is actually being managed using the tools they provide when the real process is far more haphazard.”

A comment from a regional manager points to particular concerns for those required to travel interstate for training:

“There is no money to pay for registration fees or travel interstate to attend seminars. The flow-on of this, is that staff are not only not having their development needs met, but are dissatisfied when they see other parts of the department with funds to do such things. It reduces my ability to retain good staff.”

Analysis and conclusions

It is apparent that there is a wide range of experiences amongst APS staff with ITAs. It is clear that where they work well, individual employees are well supported, training dollars are available and training priorities well established. **However the data suggests that a large segment of APS staff who are involved with ITAs believe that such schemes are little more than paper exercises that lack validity.**

The lack of sufficient training budgets appears to be a particular problem. The ANAO⁴ recently estimated that in 2000-01 APS agencies spent a total of around \$160 million on formal training and learning, or an average of \$1616 per full-time employee. This translates to about 1.1 per cent of the cost of wages and salaries. The ANAO notes that this percentage compares with that of expenditure on learning and development in 1996 by both the private and public sector in Australia of some 2.5 per cent of salary and 3.5 per cent by leading United States companies.

Access to human resource (HR) management services that are targeted at supporting ITAs appears to be a major problem. Such a lack of support results in the ITAs not contributing to performance improvement and career development in the manner that is expected. In addition, this creates a lack of confidence in the capacity of some areas of APS management to effectively manage training and development.

⁴ Australian National Audit Office, *Management of Learning and Development in the Australian Public Service Performance Audit*, Report No.64 2001-2002, p11.

The ANAO recently reported that the requirement to market test HR functions has impacted to some degree on HR areas' ability to deliver high quality advice and services during the preparation for, and actual market testing process.⁵ This is also a factor in the reported difficulties with ITAs. **It is problematic for an Agency to be implementing changes to HR strategies, including employee training, at the same time that major changes for HR functions is being considered.**

The CPSU survey results are consistent with an analysis of individual member grievances handled by the CPSU Members Service Centre (MSC): One hundred and seventy individual grievances (7% of total) dealt with by the MSC related to APS training programs. Typically the issue of training arose out of a grievance about a negative performance assessment, that then retarded movement to the next paypoint or bandwidth. The short comings included inadequate training, the lack or orientation for new staff in an area, a lack of time in which to train and a lack of training as part of workers' compensation return to work programs.

There is a emerging pattern that within the APS, the cost of workplace training is being increasingly transferred to individual APS employees, and/or that previous training provided in the private sector is being increasingly relied upon.

Individual Training Agreement Recommendations

1. That APS agencies be required to report to the APSC details of expenditure on learning and development.
2. That the Senate Finance and Public Administration References Committee considers further examination of information from APS agencies using Individual Training Agreements about the level of support provided to employees and managers to develop such agreements by agency HR services.

⁵ Australian National Audit Office, *Managing People for Business Outcomes*, Report No.61 2001-2002, p49.

3. That the Senate Finance and Public Administration References Committee considers examining information from APS agencies on the impact of the market testing of HR services on agency training and development programs.

2. Graduate Recruits and Indigenous University Students

The Australian Public Service Commission (APSC) states that APS agencies look to graduate recruitment as a key strategy to build skills and capabilities over the long term.⁶ The APSC also reports that agencies are indicating success with their graduate recruitment. The CPSU recently surveyed APS graduate recruits on their experiences with the graduate program.

CPSU Graduate Recruit Survey Results

The CPSU conducted a survey of APS graduate recruits – twenty two respondents replied with the profile 50% female, 50% aged 36+, 55% classified APS1-6, and 86% working in the ACT.

The respondents were reasonably positive about the Graduate Program. Respondents were asked to evaluate the Program as detailed in Table Five, Six and Seven.

How relevant are the graduate recruitment selection criteria?			
Level of relevance:	Not	Somewhat	Very
Percentage of responses:	0%	68%	32%

Table Five: Relevance of Graduate Recruitment Criteria

How effective is the Program in providing for your future work in the APS?			
Level of effectiveness:	None	Somewhat	Very
Percentage of responses:	0%	64%	36%

Table Six: Effectiveness of Graduate Program in Providing for the Future

How relevant have are the formal graduate training sessions?			
Level of relevance:	None	Somewhat	Very
Percentage of responses:	18%	77%	5%

Table Seven: Effectiveness of Graduate Program in Providing for the Future.

Respondents reported that they understood their agencies' expectations of the skills required to work successfully in the APS, with 86% reporting an adequate level of on-the-job training and support being received. **However only 64% of respondents reported that their level of work was consistent with their skills.**

Respondents were asked to indicate how long they intended to stay in the APS and the response can be found in Table Eight.

Intended time in APS:	1-2 years	3-5 years	6-9 years	10 or more
Percentage of responses:	36%	32%	5%	27%

Table Eight – Graduate Program participant's intended length stay in the APS

Sixty four per cent of Graduate Program respondents indicated that they had considered leaving the APS. Stated reasons include a lack of recognition of post graduate qualifications in the salary structure offered and previous APS employment. When other career opportunities arise the salaries are not competitive.

The difficulties of moving to Canberra were cited as also causing some respondents to consider leaving the Program. One respondent indicated that it was extremely difficult to do a Graduate placement away from Canberra because of an unwillingness by agencies to pay relocation costs.

Respondents had concerns about the lack of planning with their graduate placements and a need for there to be a stronger focus on the preferences of the graduates. One respondent indicated a perception that management was not interested in the Graduate Program.

⁶ Public Service and Merit Protection Commission, *State of the Service Report 2000-01*, 19 October

Suggested improvements to the Program included better advertising of the Graduate Program at careers fairs and university career offices. One graduate reports:

“It was only by accident that I came across the Graduate Program.”

The information at universities should include descriptions of APS agencies and how to comprehensively address APS position selection criteria. Assistance with finding a place to live, especially in Canberra would also be appreciated.

Recognition of past experience to take into account graduates who have done their degree after trade or previous work experience is lacking. It was also suggested that agency management ask graduates directly for some evaluation of the Program including their individual placements.

Aboriginal and Torres Strait Islander university students

The National Indigenous Cadetship Project (NICP)⁷ matches Aboriginal and Torres Strait Islander students studying full time at university with employees who can give them work skills development and professional employment. NICP is a Commonwealth Government initiative aimed at improving the professional employment prospects of Indigenous Australians. NICP has been in operation for ten years and provides cadets with a study allowance and 12 weeks paid work per year. An APS Agency involved with NICP is the **Department of Education, Training and Youth Affairs**. In 2000 DETYA recruited one additional person through NICP to make a total of five (5) cadets.⁸ During the first half of 2001 one cadet completed their degree and commenced work in the Department. NICP compliments the Graduate Recruitment Programs by recognising the specific needs of Indigenous Australians.

2001, p124.

⁷ Department of Employment and Workplace Relations, www.ncip.dewr.gov, 11 August 2002.

⁸ Department of Education Training and Youth Affairs, *Annual Report 2000-01*, p.104.

Analysis and conclusions

Respondents were generally supportive of the APS Graduate Recruitment Program with most concern being raised about the adequacy of the formal training sessions and the level of support given to graduates on their arrival in Canberra.

The intention of 68% of respondents to stay in the APS only for up to 5 years indicates that their career aspirations are elsewhere. This could be in part a result of poor targeting of graduate recruitment, advertising and promotional strategies.

The APSC reports that the numbers of employees with five and under ten years of service continues to decline, falling from 28.5% of all ongoing employees in June 1996 to 17.1% in June 2001.⁹ The representation of employees with less than 5 years service has increased from 22.5% in June 1998 to 32.8% in June 2001. Within this group, the representation of employees with less than two years service more than doubled during the same period, from 8.6% to 19.1%. The reported career intentions from the CPSU Graduate survey is consistent with these broader APS trends.

If the Graduate Program is to be a key strategy in building skills and capacity in the APS then there is an urgent need for additional strategies to improve the advertisement and promotion of the program. There is also an urgent need for strategies to improve the retention of Graduates. **The APS Graduate Program represents a considerable investment of public money and it is imperative that the return from such expenditure is maximised.**

Between June 1992 and June 2001, the representation rate of Indigenous Australians in the APS has risen from 1.8% to 2.2% despite the actual number of Indigenous Australians in the APS declining from 2629 to 2379 during the same period.¹⁰ The representation rate at the Executive Level was static over the period (0.7%) and is lower than the representation rates for APS1-6.

⁹ Public Service and Merit Protection Commission, *State of the Service Report 2000-01*, 19 October 2001, pp35.

¹⁰ Australian Public Service Commission, *State of the Service – Workplace Diversity Report 2000-01*, p.51.

However the APSC notes that for many years Indigenous Australians have been over-represented in separations but higher levels of appointments have offset this. In 1999-00 the proportion of Indigenous Australians in separations was 1.6%.¹¹ **The CPSU notes with concern the APSC conclusion that if the trend of higher proportions of Indigenous Australians in separations than in engagements continues, the representation of Indigenous Australians in the APS will continue to decline.**

Although, the APSC reports that the National Indigenous Cadetship Project (NICP) is a major strategy APS agencies are using to improve Indigenous Australian representation rates in the APS the Workplace Diversity Report 2000-01 did not report on trends in the number of APS NICP participants (cadets). **It is therefore unclear as to whether the numbers of APS NICP cadets is increasing, static or declining.**

Graduate Recruit Recommendations

4. That the Senate Finance and Public Administration References Committee considers further investigation and analysis, by the APSC, of current strategies to advertise and promote the Graduate Program.
5. That the Senate Finance and Public Administration References Committee considers examining recommended strategies from the APSC on strategies to improve the retention of Graduates.
6. That the Senate Finance and Public Administration References Committee considers examining information APS Agencies on the trends in the number of National Indigenous Cadet Project participants (cadets) within their agency.

¹¹ Australian Public Service Commission, *State of the Service – Workplace Diversity Report 2000-01*, p.55.

3. Non-ongoing Employment

The Australian Public Service Commission (APSC) reports on trends in the usage of non-ongoing employees¹². The greatest usage of non-ongoing employment continues to be at the lower classification levels in the APS. Over three quarters of the non-ongoing employees in the APS at 30 June 2001 were at the APS 1-4 levels. Generally, the typical non-ongoing employee tends to be employed for a short period at a junior level.

Section 22 of the Public Service Act 1999 (PS Act 1999) specifies that the usual basis for engagement is as an ongoing employee and allows for non-ongoing engagement for circumstances and periods as specified in the regulations. Regulation 3.5 the Public Service Regulations 1999 (PS Regulations) allows for non-ongoing employees to be generally engaged for 1 month with Regulation 3.6 allowing for a further extension of 18 months. The full text of Section 22 and Regulations 3.5 and 3.6 are included in Attachment A of this submission.

Recent developments with non-ongoing employment

Defence unions, including the CPSU, recently concluded an Australian Industrial Relations Commission (AIRC) matter¹³, which resulted in orders being issued for 178 non-ongoing staff to be made ongoing. These employees had been non-ongoing staff for close to three years and the AIRC noted that while the PS Act 1999 and PS Regulations prohibits employment on temporary contracts for periods in excess of three years there is no sanction attached to a breach of this provision. **This case establishes a set of circumstances in which non-ongoing APS employees can gain ongoing employment outside PS Act 1999 merit selection processes.** However it should be noted that the precedent is limited by APS Agency's Certified Agreement provisions relating to extra claims for non-ongoing staff.

¹² Public Service and Merit Protection Commission, *State of the Service Report 2000-01*, 19 October 2001, pp58-60.

¹³ Commissioner Deegan, *Australian Industrial Relations Commission Decision PR920424*, 23 July 2002.

In the Defence matter, the AIRC used the power granted to it pursuant to Section 121 of the Workplace Relations Act 1996 to override the PS Act 1999. The Department of Defence had made an undertaking to permanently appoint the non-ongoing employees as the circumstances for using the non-ongoing employees had changed over the period, and to do otherwise would leave the employees in a state of “limbo”. In addition, the AIRC determined that clause 425 of the Defence Employees Certified Agreement 2002-2003, allowed further claims with respect to the employees concerned.

Another related matter is a CPSU dispute regarding the treatment of **Centrelink** non-ongoing employees by a private sector agency who was selecting on-going employees for **Centrelink**. The selection process resulted in a number of non-ongoing employees being unfairly excluded despite what appeared to be strong claims for on-going employment. For example a profile of one non-ongoing employee who was excluded early in the selection process was:

- She was a checker and verifier for her team;
- She had been working continuously for over two years; and
- She had her job application supported by her manager.

Yet the same non-going employee was going to be asked to train the new on-going recruits (as a non-ongoing employee) because she was the most experienced and was seen as an expert in her team. As a result of a CPSU dispute listing with the AIRC, **Centrelink** agreed to modify their selection process to allow for a separate process for the consideration of the claims of current non-ongoing employees. This process will allow for an assessment of their job application claims by a qualified and trained **Centrelink** employee and proper application of the merit principle under the APS Act 1999.

CPSU Non-ongoing Employee Survey results

The CPSU conducted a survey of APS non-ongoing employees – thirty three respondents replied with the profile 79% female, 39% aged 18-25, 67% classified APS1-4, and 58% working in the ACT.

Respondents had commenced work in their current agency, mostly in 2001 and 2002 as indicated in Table Nine with the number of consecutive contracts worked in Table Ten.

Year commenced with agency:	1991-99	2000	2001	2002
Percentage of responses:	15%	6%	42%	30%

Table Nine – Year commenced work with current agency

No of consecutive contracts:	1-2	3	4-7	8-12
Percentage of responses:	27%	30%	18%	12%

Table Ten – Number on consecutive non-ongoing contacts

Forty two percent of respondents had worked in the APS prior to working for their current agency. Their years of APS experience prior to their current job is detailed in Table Eleven.

No of years:	1-2	3-5	6-9	10+
Percentage of responses:	38%	13%	19%	31%

Table Eleven – Years of APS experience for the 42% with prior APS employment

All respondents indicated that they would like to be ongoing employees. Forty two per cent of respondents had been told by management that there was an intention to fill their position with an on-going employee. Only 52% of respondents had a performance agreement and only 33% had an individual training agreement.

A number of respondents indicated that they believed that their position was non-ongoing because of a temporary increase of work in the agency or as a result of temporary project funding. Some non-ongoing employees indicated that they were filling in for an on-going employee. Others cited restructures within their workarea as the reason for the uncertainty about their positions.

Two respondents reported that they were New Apprentices and that once they finished their 12 months contracts they would have to apply for a further position.

Alarminglly one non-ongoing employee reported:

“The work will finish soon. I started in 1991.”

Some respondents indicated that their employee was an employment agency.

Analysis and conclusions

Fifteen per cent of respondents indicated that they commenced work for their agencies between 1991-1999, 12% having worked eight or more consecutive contracts. All respondents wanted to become on-going APS employees. The respondents appeared reasonably satisfied regarding the reasons given to them by management for being non-ongoing employees and fairly accepting that they could be engaged for long periods as non-ongoing employees. **This suggests that non-ongoing employees are either not aware of the restrictions on the use of non-ongoing employment or they are aware but are not confident about raising such concerns.**

While there is continued uncertainty about the entitlements of long term non-ongoing employees, the CPSU will continue to advocate for the fair treatment of such employees, including access the AIRC where these issues cannot be resolved at the agency level. However we are concerned that the merit principle is being subverted and believe that it is more appropriate to avoid such situations by employing on-going staff as early as possible. If there is some uncertainty as to whether the work is on-going or non-ongoing, then on-going staff should be used rather than having non-ongoing staff finding themselves in “limbo”. In this way the merit principle will not be subverted. Such a policy will also avoid the creation of workplaces in which high levels of non-ongoing staff lead to high turnover rates, and the consequential decline in employees’ skills and knowledge. Finally it is clear that the lack of data for these employees needs to be urgently addressed.

The reports of non-ongoing employees that their employer was an employment agency remain a serious concern. The APSC has noted that employment agency hires are not actually APS employees and therefore not recorded on agency employee databases. The data that these sources produce may no longer be giving a clear picture of who is actually working in the APS.¹⁴ The APSC has indicated that they will be providing a detailed study of the use of agency hires in the State of Service Report 2001-02.

The ANAO has identified that the loss of HR staff with specialist knowledge of Commonwealth superannuation arrangements has resulted in problems with the provision of APS agency data to Comsuper.¹⁵ **There is an emerging risk that private companies providing HR services to APS agencies will, through not having enough employees with direct experience as an APS HR employee, not have the capacity to:**

- **Accurate process APS HR data and report accordingly; and**
- **Provide comprehensive and relevant APS employment advice.**

Finally, it is of concern that APS employed New Trainees are being treated differently from most APS graduate recruits by not being initially merit selected as on-going employees (subject to the successful completion of their New Apprenticeship).

Non-ongoing Employee Recommendations

7. That the Senate Finance and Public Administration References Committee considers examining advice from the APSC on the implications of the recent AIRC Defence decision for APS non-ongoing employees;
8. That the Senate Finance and Public Administration References Committee further examine an immediate interim report by the APSC on the use of agency hires (non-APS employees); and

¹⁴ Public Service and Merit Protection Commission, *State of the Service Report 2000-01*, 19 October 2001, p60.

¹⁵ Australian National Audit Office, *Management of Commonwealth Superannuation Benefits to Members Comsuper Performance Audit*, No.65 2001-2002.

9. That the Senate Finance and Public Administration References Committee considers examining a report by the APSC on options to enable New Apprentices to be initially engaged as on-going employees.
10. That on employment non-ongoing APS staff be made aware, in plain English, of their rights in relation to circumstance in which non-ongoing staff can be employed, the length of their initial term, the circumstances when an extension can be granted and the maximum total term of employment.

Conclusion

We have identified a number of issues that indicate that there is considerable room for improvement in APS recruitment and training, particularly in the areas of individual training agreements, graduate recruitment and non-ongoing staff. While we recognise that, there are some limitations on the conclusions to be drawn from our survey data, we have made a number of recommendations. The recommendations will assist in developing greater transparency and accountability in the expenditure of training and recruitment dollars and to ensure compliance with the PS Act in all areas of APS recruitment.

We have highlighted issues of concern to APS staff including their ability to achieve their career aspirations. We have raised a concern about trends in representation rates of Indigenous Australians in the APS, including difficulties in assess the success or otherwise of programs such as the National Indigenous Cadetship Project. A number of areas for further investigation and examination have been identified. These areas if dealt with appropriately, have the potential to reduce the negative impact of high staff turnover, and to increase the effectiveness of APS training and development budgets.

Community and Public Sector Union (PSU Group)

12 August, 2002

Attachment A

PUBLIC SERVICE ACT 1999

SECTION 22

Engagement of APS employees

- (1) An Agency Head, on behalf of the Commonwealth, may engage persons as employees for the purposes of the Agency.
- (2) The engagement of an APS employee (including an engagement under section 72) must be:
 - (a) as an ongoing APS employee; or
 - (b) for a specified term or for the duration of a specified task; or
 - (c) for duties that are irregular or intermittent.
- (3) The usual basis for engagement is as an ongoing APS employee.
- (4) The regulations may limit the circumstances in which persons may be engaged as mentioned in paragraph (2)(b) or (c).
- (5) An engagement for a specified term may be extended, subject to any limitations prescribed by the regulations.
- (6) The engagement of an APS employee (including an engagement under section 72) may be made subject to conditions notified to the employee, including conditions dealing with any of the following matters:
 - (a) probation;
 - (b) citizenship;
 - (c) formal qualifications;
 - (d) security and character clearances;
 - (e) health clearances.
- (7) Subsection (6) does not, by implication, limit the conditions that may be applied to the engagement of an APS employee.
- (8) An Agency Head must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so.

PUBLIC SERVICE REGULATIONS 1999

REGULATION 3.5 Engagement of non-SES employees (Act s 22)

- (1) For the purposes of subsection 22 (4) of the Act, this regulation sets out the circumstances in which a person may be engaged as a non-SES employee for a specified term or for the duration of a specified task.

Note Subsection 22 (3) of the Act provides that the usual basis for engagement of an APS employee is as an ongoing APS employee.

- (2) The person may be engaged for a reason, and for a specified term, set out in the following table:

Item	Reason	Specified term
1	To enable the Agency to meet a temporary increase in the workload of the Agency, or of a component of the Agency, that the Agency Head does not expect to continue	Term not exceeding 18 months
2	The Agency has a temporary demand for employees with particular skills	Term not exceeding 18 months
<i>Note</i>	In relation to this item, ongoing APS employees in the Agency with those skills are, or have been: (a) given the opportunity to express interest in performing the relevant duties; and (b) considered for performance of those duties.	
3	To replace an ongoing APS employee who is on leave authorised by the Agency	Term not exceeding 18 months
4	To replace an ongoing APS employee to whom other duties are temporarily assigned	Term not exceeding 18 months
5	To replace an ongoing APS employee who moves temporarily to another Agency	Term not exceeding 18 months
6	To replace an ongoing APS employee pending engagement of another ongoing APS employee	The lesser of: (a) 6 months from the date of the engagement; and (b) the period ending when an ongoing APS employee is engaged
7	To undertake duties for the Agency pending engagement of an ongoing APS employee to undertake the duties	The lesser of: (a) 6 months from the date of the engagement; and (b) the period ending when an ongoing APS employee is engaged
8	The person: (a) has been offered, in writing, engagement as an ongoing APS employee; but (b) prefers to be engaged for a specified term	Term not exceeding 3 years

Note When considering the replacement of an ongoing employee whose absence is likely to be prolonged or indefinite, an Agency Head is bound by subs 22 (3) of the Act, which

provides that the usual basis for engagement of an APS employee is as an ongoing APS employee, and para 10 (1) (n) of the Act, which provides that the APS is a career-based service.

- (3) The person may be engaged for the duration of a specified task if:
- (a) the Agency Head can reasonably estimate the duration of the task at the time of engagement; and
 - (b) at that time, the Agency Head reasonably considers that the services of the person are unlikely to be required after completion of the task; and
 - (c) ongoing APS employees in the Agency with the skills required to undertake duties in relation to the task are:
 - (i) given the opportunity to express interest in performing those duties; and
 - (ii) considered for performance of the duties.
- (4) The person may be engaged for a specified term, or for the duration of a specified task, if the engagement is for the purpose of the person gaining skills and experience under a scheme that is:
- (a) approved under regulation 3.3; or
 - (b) the subject of a general direction in force under subsection 21 (1) of the Act.
- (5) The person may be engaged for a specified term, or for the duration of a specified task, if the engagement is for the purpose of meeting a practical requirement for:
- (a) the award of a qualification to the person by an educational institution; or
 - (b) accreditation of the person by a professional body.
- (6) The person may be engaged for a specified term, or for the duration of a specified task, if the engagement is for the purpose of providing the person with occupational experience that is required under a law of the Commonwealth, or of a State or Territory, for licensing or registration to engage in the occupation.

Note The Commissioner's Directions (in particular Ch 3, Diversity in employment, and Ch 4, Merit in employment) contain requirements that apply to the engagement of employees.

PUBLIC SERVICE REGULATIONS 1999**REGULATION 3.6 Extension of specified terms of engagement of certain non-SES employees (Act s 22)**

- (1) For the purposes of subsection 22 (5) of the Act, the engagement of a person for a reason mentioned in item 1 in the table in subregulation 3.5 (2) may be extended if:
 - (a) the reason continues to exist; and
 - (b) the total term does not exceed 3 years; and
 - (c) the Agency cannot fully meet its objectives by using the services of an ongoing APS employee in the Agency; and
 - (d) the temporary increase in workload of the Agency, or the component of the Agency, is a result of implementing a policy that does not involve an ongoing increase in the usual workload of the Agency or component.
- (2) For the purposes of subsection 22 (5) of the Act, the engagement of a person for a reason mentioned in item 2, 3, 4 or 5 in the table in subregulation 3.5 (2) may be extended if:
 - (a) the reason continues to exist; and
 - (b) the total term does not exceed 3 years; and
 - (c) the Agency cannot fully meet its objectives by using the services of an ongoing APS employee in the Agency; and
 - (d) the Agency Head certifies that extension of the engagement is in the public interest.

Note The Commissioner's Directions (in particular Ch 3, Diversity in employment, and Ch 4, Merit in employment) contain requirements that apply to the engagement of employees.