

s 22

From: LLOYD, John <John.Lloyd@apsc.gov.au>
Sent: Wednesday, 13 July 2016 8:33 AM
To: Parkinson, Martin
Cc: FOSTER, Stephanie
Subject: Enterprise Bargaining [~~DLM - Sensitive~~]

~~Sensitive~~

Martin

My advice to the incoming Minister is that the Government quickly affirm no change to the bargaining policy.

I will also recommend that I meet with Nadine Flood to affirm this position. The Minister or Prime Minister should not in my view meet the union.

It will be interesting to elicit the CPSU position, post-election. The psychology of bargaining will have changed. Most of the staff who have not voted up an agreement will be keen to settle the issue and move on.

I am aware of some suggestions that we should relax the position of removing excessive content from enterprise agreements. I think this would be the wrong strategy, especially if it was conceded up front.

The key negotiation – air traffic controllers is proceeding quietly. Air Services Australia will offer a 2%+2%+2% increase. I have approved this but it has not been conveyed to the union and staff yet. Any change in the bargaining policy, even a minor change, has the potential to complicate this negotiation.

Also, any review will play into the APS workplace relations environment. The timing on an initiative should be carefully considered so as not to unduly complicate the bargaining atmosphere post-election.

I have some additional ideas about workplace relations strategy during this term. It presents many opportunities for the Government.

I thought it useful to set out these thoughts before we have a chat.

Regards

John Lloyd PSM | Commissioner

Australian Public Service Commission

Level 6, Aviation House, 16 Furzer Street, PHILLIP ACT 2606

P: s 22 **M:** s 22 **I:** **W:** www.apsc.gov.au

Important: This email remains the property of the Commonwealth and is subject to the jurisdiction of section 70 of the Crimes Act 1914. It may contain confidential or legally privileged information. If you think it was sent to you by mistake, please delete all copies and advise the sender.

s 22

From: Parkinson, Martin
Sent: Friday, 12 August 2016 4:55 PM
To: 'LLOYD,John'
Subject: RE:s 22 [DLM-Sensitive:Personal]

~~Sensitive: Personal~~

John

s 22

We advised the PM to back the Minister's proposal so that's a good outcome too.

Cheers

Martin

From: LLOYD,John [mailto:John.Lloyd@apsc.gov.au]
Sent: Friday, 12 August 2016 9:29 AM
To: Parkinson, Martin
Subject: s 22 [DLM-Sensitive:Personal]

~~Sensitive: Personal~~

Martin

I thought I should give you an update.

s 22

The Prime Minister has responded to the Minister agreeing that we reaffirm the current enterprise bargaining policy. The Minister and I are working out the announcement arrangements for next week.

Regards

John Lloyd PSM | Commissioner

Australian Public Service Commission
Level 6, Aviation House, 16 Furzer Street, PHILLIP ACT 2606

Important: This email remains the property of the Commonwealth and is subject to the jurisdiction of section 70 of the Crimes Act 1914. It may contain confidential or legally privileged information. If you think it was sent to you by mistake, please delete all copies and advise the sender.

s 22

From: FORTRESS - LLOYD, John <John.Lloyd@protected.apsc.gov.au>
Sent: Wednesday, 12 April 2017 4:21 PM
To: Parkinson, Martin
Cc: s 22 Kelly, Elizabeth; Sharpe, Sophie; FORTRESS - FOSTER, Stephanie; Flinders, Christopher
Subject: RE: Executive Remuneration - as discussed ~~[SEC-PROTECTED]~~

~~PROTECTED~~

Martin

I am happy with the proposed response.

It states that Secretaries Board is looking at revised reporting arrangements for non-corporate entities. This is accurate.

I think there are some issues with the possible approach and we should have a discussion before a final endorsement.

Regards

John Lloyd

From: Parkinson, Martin [mailto:Martin.Parkinson@pmc.gov.au]
Sent: Wednesday, 12 April 2017 1:33 PM
To: FORTRESS - LLOYD, John
Cc: s 22 Kelly, Elizabeth; Sharpe, Sophie; FORTRESS - FOSTER, Stephanie; Flinders, Christopher
Subject: FW: Executive Remuneration - as discussed ~~[SEC-PROTECTED]~~
Importance: High

~~PROTECTED~~

Dear Commissioner

As discussed with s 22 from your office, the Secretary had tried to send the below email via your unprotected network. Given the email was not delivered, we had scheduled a telephone conversation for yesterday afternoon.

Given we missed that opportunity, and the Secretary is interstate with very limited availability, he would appreciate your response via email if possible.

We understand from Finance that a response is due to the Committee tomorrow and it does require clearance from their Minister. If you are unable to provide a response today, please let us know and Finance will seek an extension from the Committee.

With thanks, s 22

s 22 | Executive Assistant to:
 Dr Martin Parkinson, AC, PSM | Secretary
 Department of the Prime Minister and Cabinet
 T: s 22 | M: s 22 | E: s 22

From: Parkinson, Martin
Sent: Tuesday, 11 April 2017 10:35 AM
To: 'LLOYD,John' <John.Lloyd@apsc.gov.au>
Cc: Kelly, Elizabeth <Elizabeth.Kelly@pmc.gov.au>; Sharpe, Sophie <Sophie.Sharpe@pmc.gov.au>; FOSTER,Stephanie <Stephanie.Foster@apsc.gov.au>
Subject: FW: Executive Remuneration - as discussed ~~[SEC-PROTECTED]~~

~~PROTECTED~~

John

Rosemary has sent the following response they are proposing to a JCPAA QoN – I'm OK with it as I think we should go back to publishing SES remuneration, in bands, and with the number of recipients. I would suggest publishing on our websites though, rather than in the Annual Reports.

Any thoughts?

Cheers

MP

From: Huxtable, Rosemary [<mailto:Rosemary.Huxtable@finance.gov.au>]
Sent: Monday, 10 April 2017 6:01 PM
To: Parkinson, Martin <Martin.Parkinson@pmc.gov.au>
Cc: Sharpe, Sophie <Sophie.Sharpe@pmc.gov.au>
Subject: Executive Remuneration - as discussed ~~[SEC-PROTECTED]~~

~~PROTECTED~~

Hi Martin, Further to our discussion earlier, cut in below is the question from JCPAA and a proposed response. Can you let me know if you are happy with the second paragraph. Thanks

SPECIFIC QUESTIONS ON NOTICE

Question 1.

Can Finance describe what actions, if any, are being taken to act on the Auditor-General's conclusion on SES remuneration, i.e. 'that there would be benefit in Government considering making the aggregate level of transparency for key management personnel remuneration in the public sector consistent with that required for listed entities'? For example, is Finance considering seeking a change to the 'guide' in section 27 of the PGPA Financial Reporting Rule, which states that agencies are not required to report the individual benefits received by those persons?

Response

In February 2017, the Minister for Finance, Senator the Hon. Mathias Cormann, wrote to the Chairs of Government Business Enterprises (GBEs) and the Future Fund Management Agency requesting that senior executive remuneration be disclosed in a manner consistent with the requirements for ASX listed

companies. All GBEs have since published details of remuneration for each of their key management personnel and Board members. The GBE guidelines, issued by the Department of Finance, are being updated to include reference to annual reporting of remuneration.

In terms of non-corporate Commonwealth entities, the Secretaries Board has separately been discussing ways to improve the transparency of executive remuneration within the General Government Sector and is looking to put in place revised reporting arrangements in the near future.

Rosemary Huxtable PSM
Secretary
Department of Finance
T: 02 6215 3445 E: rosemary.huxtable@finance.gov.au
A: One Canberra Ave, Forrest ACT 2603

~~PROTECTED~~

Finance Australian Business Number (ABN): 61 970 632 495
Finance Web Site: www.finance.gov.au

IMPORTANT:

This transmission is intended only for the use of the addressee and may contain confidential or legally privileged information. If you are not the intended recipient, you are notified that any use or dissemination of this communication is strictly prohibited.

If you have received this transmission in error, please notify us immediately by telephone on 61-2-6215-2222 and delete all copies of this transmission together with any attachments.

If responding to this email, please send to the appropriate person using the suffix .gov.au.

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

Important: This email remains the property of the Commonwealth and is subject to the jurisdiction of section 70 of the Crimes Act 1914. It may contain confidential or legally privileged information. If you think it was sent to you by mistake, please delete all copies and advise the sender.

s 22

From: s 22 on behalf of LLOYD, John
 <John.Lloyd@apsc.gov.au>
Sent: Thursday, 4 May 2017 10:28 AM
To: daryl.quinlivan@agriculture.gov.au; Chris.Moraitis@ag.gov.au;
 heather.smith@communications.gov.au; dennis.richardson@defence.gov.au;
 Brendan.Sargeant@defence.gov.au; LEON,Renée; de Brouwer, Gordon;
 Rosemary.Huxtable@finance.gov.au; frances.adamson@dfat.gov.au;
 Martin.Bowles@health.gov.au; Kathryn.Campbell@humanservices.gov.au;
 michael.pezzullo@border.gov.au; Glenys.Beauchamp@industry.gov.au;
 Mike.Mrdak@infrastructure.gov.au; Parkinson, Martin; Finn.Pratt@dss.gov.au;
 Simon.Lewis@dva.gov.au
Subject: Australia Post and Bargaining Policy ~~[DLM - For Official Use Only]~~
Attachments: Talking Points - Partial bargaining policy exemption for Australia Post.docx; 28.04.2017 -
 Att Mr Ahmed Fahour - correspondence from the Australian Public Service
 Commission.pdf

~~For Official Use Only~~

Dear Colleagues

At Secretaries' Board, I agreed to provide you with further information regarding the partial exemption from the bargaining policy of Australia Post.

The attached talking points explain the rationale for the partial exemption.

Also attached is a copy of the formal advice to the Australia Post CEO. The letter has not been made public so I ask that you exercise discretion in circulating it.

The types of clauses that are exempt from application of the policy include those which:

- prescribe how contractors and labour hire engagements will be used;
- place some limits on the use of casual employees;
- provide pre-decision consultation guarantees with unions about a range of matters; and
- facilitate union activities in the workplace and provides privileges for delegates.

Other elements of the bargaining policy, particularly the wages cap and the restriction on enhancing other terms and conditions, remain.

Regards

John Lloyd PSM | Commissioner

Australian Public Service Commission

Level 6, Aviation House, 16 Furzer Street, PHILLIP ACT 2606

P: s 22 | **M:** s 22 | **W:** www.apsc.gov.au

Important: This email remains the property of the Commonwealth and is subject to the jurisdiction of section 70 of the Crimes Act 1914. It may contain confidential or legally privileged information. If you think it was sent to you by mistake, please delete all copies and advise the sender.

Talking points – Partial bargaining policy exemption for Australia Post

1. The Minister Assisting the Prime Minister for the Public Service and the Minister for Communications have decided to grant a partial exemption from the Australian Government's bargaining policy to Australia Post.
2. The remuneration requirements of the policy will continue to apply to Australia Post. Wage increases will be no more than 2% per annum on average. That is fair, reasonable, and competitive.
3. As a commercial operation, Australia Post operates in a very different environment to most Australian Government bodies. It is in a highly competitive market, and operates as a business. It receives no Government funding.
4. Australia Post is transforming itself from a post office to a parcel and logistics business. It is at a critical stage in its transformation agenda. Any disruption to this would not be in the national interest at present.
5. Australia Post has invested heavily in building trust and confidence with its workforce over recent years.
6. The cooperative working relationship has enabled Australia Post to achieve significant reforms. This has realised efficiencies and transformed its parcel delivery service into a world class operation.
7. This is an example of what businesses, employees and unions can achieve when they work constructively together in the interests of continual business improvement.
8. Unfortunately, this is not the approach the CPSU has demonstrated in APS bargaining, to the detriment of agencies and employees.



Australian Government
Australian Public Service Commission

Australian Public Service Commissioner

Mr Ahmed Fahour
Managing Director and CEO
Australian Postal Corporation
GPO Box 1777
Melbourne VIC 3001

Dear Mr ^{Ahmed} Fahour

I am writing in relation to Australia Post's proposed enterprise agreement. As we have previously advised, Australia Post is covered by the Australian Government's Workplace Bargaining Policy 2015. I attach a link to the Policy, in which the Government clearly stipulates that the Policy applies to all Government agencies, including Government Business Enterprises. I note also your discussions over recent months with the Australian Public Service Commissioner, in which you have sought to clarify the application of the Policy in the context of Australia Post.

I can confirm that the Minister Assisting the Prime Minister for the Public Service, the Senator the Hon Michaelia Cash, and the Minister for Communications, Senator the Hon Mitch Fifield, have granted Australia Post a partial exemption from the Policy.

The bargaining policy specifies that exemptions may only be granted by the relevant Ministers in exceptional circumstances. In the context of Australia Post, the exceptional circumstances present include your very significant record of business transformation in recent years, achieved with the support of its staff and unions in implementing the reform agenda. This has occurred without any lost time due to industrial action. Unlike other bodies covered by the bargaining policy, Australia Post operates in a highly competitive commercial environment and this was taken into account.

The partial exemption granted allows Australia Post to roll over its current agreement without amending existing clauses that would otherwise require changes under the policy.

Other key aspects of the policy still apply to Australia Post. These include the remuneration increase parameters (a maximum of two per cent per annum averaged over the life of the agreement) and the requirement not to enhance existing conditions of employment.

Yours sincerely

s 22

Stephanie Foster
Acting Australian Public Service Commissioner

28 April 2017

From: Parkinson, Martin
Sent: Thursday, 10 August 2017 7:26 PM
To: LLOYD, John
Subject: Re: APS Bargaining [~~DLM - Sensitive~~]

John

This all looks very reasonable - we'll be using our consultative committee to try to shed the remaining elements in policy that we would like to eliminate.

Cheers

Martin

Sent from my iPhone

On 10 Aug 2017, at 6:41 pm, LLOYD, John <John.Lloyd@apsc.gov.au> wrote:

~~Sensitive~~

Martin

The workplace relations strategies of agencies that recently bargained EAs has raised some concerns. In pursuit of a moderate union position the agencies reached understandings that conflict with the Government's bargaining policy as it relates to freedom of association, right of entry and facilities for union delegates policies.

The ATO and DHS strategies in particular have raised serious concerns. Both agencies entered side deeds to the EA with their unions. The deeds were called a protocol. Other agencies such as Agriculture, Defence and PMC have also included terms in internal personnel policies that conflict with Government policy.

Both the ATO and DHS were advised by the APSC that certain provisions were contrary to policy and could not be included in an EA. The agencies then decided to enter the protocol and inserted those same provisions. I am puzzled as to how the agencies concluded that was an acceptable approach of conforming to Government policy.

We have taken a lighter touch with agencies' personnel policies. Our expectation was that these documents would facilitate the implementation of EA provisions and set out standard personnel practices. We assumed that they would be consistent with Government policy and not infringe the Government's key policy settings nor be used to include provisions not allowed in an EA.

I have always held very serious reservations about the efficacy of side deeds and if asked advised against their use. Also, I have found that a reliable indicator of an organisation's workplace relations culture is its approach to freedom of association and right of entry.

We now have to deal with the situation.

I am proposing to work with the four Departments – DHS, Agriculture, Defence and PM&C to:

- achieve an understanding of the inconsistencies with Government policy; and
- reach agreement that the Departments work with the APSC during the term of their EA to develop a more robust approach to freedom of association.

Minister Cash and I are working to achieve the same outcome with the ATO.

I have also recommended to Minister Cash that the 2017 version of the bargaining policy specify that:

- any side deeds are to be approved by me; and
- internal personnel and workplace relations policy documents are to be consistent with the Government's policy position on freedom of association, right of entry and facilities for union delegates.

Regards

John Lloyd PSM | Commissioner

Australian Public Service Commission

Level 6, Aviation House, 16 Furzer Street, PHILLIP ACT 2606

P: s 22 | **M:** s 22 | **W:** www.apsc.gov.au

Important: This email remains the property of the Commonwealth and is subject to the jurisdiction of section 70 of the Crimes Act 1914. It may contain confidential or legally privileged information. If you think it was sent to you by mistake, please delete all copies and advise the sender.