

Public  
Service  
Senior  
Executives

Annual  
Determination

*Report and determination  
under section 240 of the  
Statutory and Other  
Offices Remuneration Act  
1975*

**7 September  
2020**

## Public Service Senior Executives

# Contents

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<b>Contents</b>	<b>1</b>
<b>Section 1</b>	<b>2</b>
<b>Background</b>	<b>2</b>
Legislative Framework	2
Government Wages Policy	3
2019 Annual Determination	4
2019 - 2020 Special Determinations	5
<b>Section 2</b>	<b>7</b>
<b>Government Submission</b>	<b>7</b>
<b>Section 3</b>	<b>9</b>
<b>2020 Annual Determination</b>	<b>9</b>
No Increase	9
<b>Section 4</b>	<b>10</b>
<b>Determination No.1-Remuneration Package Ranges for the PSSEs</b>	<b>10</b>

# Section 1

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## Background

### Legislative Framework

1. Senior executives employed under the *Government Sector Employment Act 2013* (GSE Act) are referred to as Public Service senior executives (PSSEs).
2. Section 35 of the GSE Act provides that the Minister may determine bands in which senior executives are to be employed. The following four bands were determined by the former Premier on 14 February 2014:

Band 4	Secretary level
Band 3	Deputy Secretary level
Band 2	Executive Director level
Band 1	Director Level

3. Section 40 of the GSE Act provides for the remuneration package of a PSSE to be within the range determined under the *Statutory and Other Offices Remuneration Act 1975* (SOOR Act) for the band in which the executive is employed. Remuneration packages are expressed as a total cost of employment, whether the amount is monetary remuneration for the executive, or partly as that remuneration and partly as the cost to the employer of the executive's employment benefits.
4. Section 240 of the SOOR Act provides for the Tribunal to make an annual determination of remuneration packages for senior executives on and from 1 July in that year.
5. The Tribunal's determination provides for remuneration ranges for Bands 1 to 4 and specific remuneration packages for individual office holders identified in the determination.
6. This determination, made under Part 3B of the SOOR Act, also applies to any senior executive employed in the following aligned services:

## Public Service Senior Executives

- NSW Police Force senior executive to whom Part 5 of the *Police Act 1990* applies, also the Commissioner of Police
  - NSW Health Service senior executive to whom Part 3 of Chapter 9 of the *Health Services Act 1997* applies
  - Transport Service senior executive to whom Part 7A of the *Transport Administration Act 1988* applies.
7. Executive employment arrangements for Health Service senior executives, Transport Service senior executives and NSW Police Force senior executives align with those of PSSEs to the extent provided for in the legislation governing their employment.
  8. A small number of ‘transitional former senior executives’ and NSW Police Force senior executives continue to be eligible for remuneration packages as determined under Part 3A of the SOOR Act. The remuneration ranges in the Transitional Senior Executives determination apply to these executives.

## Government Wages Policy

9. In determining remuneration for PSSEs the Tribunal is required pursuant to section 6AA of the SOOR Act to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission (IRC) is required to give effect to under section 146C of the *Industrial Relations Act 1996* (the IR Act) when making or varying awards or orders relating to the conditions of employment of public sector employees.
10. The current policy on wages pursuant to section 146(1)(a) of the IR Act is specified in the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (the IR Regulation). The effect of the IR Regulation is that public sector wages cannot increase by more than 2.5 per cent. Any increase beyond 2.5 per cent can only be awarded if sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs.
11. On 29 May 2020, the Premier, the Hon Gladys Berejiklian MP, made the *Industrial Relations (Public Sector Conditions of Employment) Amendment (Temporary Wages*

## **Public Service Senior Executives**

*Policy) Regulation 2020*. That regulation amended the IR Regulation 2014 to implement a temporary wages policy, being a 12-month pause on wage increases for public sector employees covered by the IR Act.

12. On 2 June 2020, the amending regulation was disallowed by the Legislative Council. The effect of that disallowance is that the Government's wages policy which provides for increases of up to 2.5 per cent continues to apply.
13. While the Tribunal is required to give effect to the Government's wages policy in the making of this determination, it is open to the Tribunal to determine an increase of up to 2.5 per cent or no increase at all.
14. The Tribunal notes that the Government's position on wage increases, as put forward in the Crown Employees (Public Sector - Salaries 2020) Award and Other Matters, is with the IRC pending determination.

### **2019 Annual Determination**

15. The Tribunal's 2019 annual determination for PSSEs dated 27 August 2019 provided for a 2.5 per cent increase in the minimum and maximum remuneration ranges for each band. The increase also applied to the remuneration packages for those senior executives named in the determination. As part of the 2019 annual determination, the Tribunal determined to alter the range of remuneration packages for PSSE Band 4 for each executive named in the role of Secretary of a Department, which excluded the discretionary remuneration range, to take effect from 1 July 2019:

- Mr Tim Reardon, Secretary, Department of Premier and Cabinet: \$629,100 per annum
- Mr Jim Betts, Secretary, Department of Planning, Industry and Environment: \$605,500 per annum
- Mr Mike Pratt, Secretary, NSW Treasury; Mr Mark Scott, Secretary, Department of Education; Ms Elizabeth Koff, Secretary, Ministry of Health; Mr Rodd Staples, Secretary, NSW Transport; Mr Michael Coutts-Trotter, Secretary, Department of

## **Public Service Senior Executives**

Communities and Justice; and Mr Glenn King, Secretary, Department of Customer Service: \$599,000 per annum.

### **2019 - 2020 Special Determinations**

16. The Tribunal has made four special determinations, pursuant to section 24P of the SOOR Act, since the making of the 2019 annual determination which amend that determination.
17. On 30 March 2020, the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Mr Michael Fuller in the role of Commissioner of Police with a remuneration package of \$649,500 per annum effective from 1 January 2020.
18. On 28 February 2020, the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Dr Jim Bentley in the role of Chief Executive Officer, NSW Water, Department of Planning, Industry and Environment with a remuneration package of \$588,102 per annum, with effect from the date of his appointment.
19. On 10 December 2019, the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Mr Steffen Faurby in the role of Managing Director, Technical and Further Education Commission with a remuneration package of \$575,000 per annum, with effect from the date of his appointment being 13 January 2020.
20. On 21 October 2019, the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Ms Emma Hogan in the role of Secretary of the Department of Customer Service with a remuneration package of \$599,000 per annum effective from the date of her appointment being 21 October 2019.
21. One previous special determination made by the Tribunal no longer applies as the executive named in the special determinations has vacated the specified role since the making of the 2019 annual determination. Accordingly, the different remuneration

## **Public Service Senior Executives**

package that applied to Ms Sandra Chipchase in the role of Chief Executive Officer,  
Destination NSW has been removed from Determination No 1.

## Section 2

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### Government Submission

22. The Secretary Department of Premier and Cabinet provided the Government submission to the Tribunal on 28 July 2020. Extracts appear below.

- COVID-19 is having a profound impact on the NSW economy and the NSW budget position. Measures to stop the spread of the virus have included travel restrictions and social distancing rules which have led to business closures, modification to work arrangements and job losses. This year the Tribunal should have significant regard to the economic conditions of the State and the financial position of the state.
- To assist in responding effectively to this situation, the NSW Government has announced its intention for a 12 month pause on wage increases for public sector employees. The pause will allow the Government to protect not only public sector jobs, but also provide temporary and targeted support to the broader economy and private sector jobs. This matter is currently before the Industrial Relations Commission (IRC) for determination.
- On 29 May 2020 the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Amendment (Temporary Wages Policy) Regulation 2020* was made to implement a temporary wages policy, being a 12-month pause on remuneration increases for office holders covered by Part 3 of the *Statutory and Other Offices Remuneration Act 1975*.
- For those covered by Parts 3A and 3B, section 6AA of the *Statutory and Other Offices Remuneration Act 1975* requires the Tribunal to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to when making or varying awards or orders. Relevantly in a recent decision of the Industrial Relations Commission it was confirmed that the tribunal may ‘...award increases in remuneration of 2.5% or less’



## **Public Service Senior Executives**

(see Application for Crown Employees (Public Sector – Salaries 2020) Award and Other Matters [2020] NSWIRComm 1044).

- It is recommended that a 12-month wage pause be applied to all employees and officers whose remuneration is determined by the *Statutory and Other Offices Remuneration Act 1975* regardless of the outcome of the IRC hearing. This includes, chief executive office holders; senior executive office holders; and government sector senior executives in the Public Service, NSW Police Service, NSW Health Service and the Transport Service.
- The provision applies to the following groups of employees and office holders covered under the *Statutory and Other Offices Remuneration Act 1975*:
  - Public Service Senior Executives
  - Chief and Senior Executive Officers (SES)
  - Judges and Magistrates Group
  - Court and Related Officers Group
  - Public Office Holders Group
- The 2020-21 NSW Budget has been deferred from June 2020 until later in the year following a recommendation by the National Cabinet of Commonwealth, State and Territory leaders on 20 March 2020.

## Section 3

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### 2020 Annual Determination

#### No Increase

23. Given the current economic and social circumstances, the Tribunal has determined that there be no increase in the minimum and maximum of the remuneration ranges for Bands 1 to 4. There is also no increase in the remuneration packages for those senior executives named in the determination.
24. This is consistent with the Tribunal's determinations for the Public Office Holders Group, Court Related Office Holders Group and Judges and Magistrates Group. The Tribunal also notes that other remuneration tribunals subject to the IR Regulation have also provided no increase.
25. The Tribunal consulted with the Assessors prior to making this determination.
26. Annual and Special determinations are published on the NSW Remuneration Tribunals website.

#### Statutory and Other Offices Remuneration Tribunal

*Signed*

**Richard Grellman AM**

**Dated:** 7 September 2020

## Public Service Senior Executives

# Section 4

### Determination No.1-Remuneration Package Ranges for the PSSEs

The Tribunal determines that the remuneration package ranges for Public Sector Senior Executive Bands and different remuneration packages that apply to senior executives named effective on and from 1 July 2020 shall be:

Public Sector Senior Executive Bands			
Band	Per annum range		
Band 4 - Secretary level	\$487,051	to	\$562,650
Band 3 - Deputy Secretary level	\$345,551	to	\$487,050
Band 2 - Executive Director level	\$274,701	to	\$345,550
Band 1 - Director level	\$192,600	to	\$274,700

Different remuneration packages that apply to the senior executives named
<b>Band 4 – Secretary level</b>
Mr Michael Fuller, Commissioner of Police: \$649,500 per annum
Mr Tim Reardon, Secretary, Department of Premier and Cabinet: \$629,100 per annum
Mr Jim Betts, Secretary, Department of Planning, Industry and Environment: \$605,500 per annum
Ms Elizabeth Koff, Secretary, Ministry of Health: \$599,000 per annum
Mr Michael Pratt, Secretary, NSW Treasury: \$599,000 per annum
Mr Mark Scott, Secretary, Department of Education: \$599,000 per annum
Mr Rodd Staples, Secretary, Transport for NSW: \$599,000 per annum
Mr Michael Coutts-Trotter, Secretary, Department of Communities and Justice: \$599,000 per annum
Ms Emma Hogan, Secretary, Department of Customer Services: \$599,000 per annum
<b>Band 3 – Deputy Secretary level</b>
Mr Simon Draper, Chief Executive Officer and Co-ordinator General, Infrastructure NSW: \$599,000 per annum
Dr Jim Bentley, Chief Executive Officer, Water NSW, Department of Planning, Industry and Environment: \$588,102 per annum
Mr Samuel Sangster, Chief Executive Officer, Western City and Aerotropolis Authority: \$584,250 per annum
Mr Steffen Faurby, Managing Director, Technical and Further Education Commission: \$575,000 per annum
Dr Nigel Lyons, Deputy Secretary, Strategy and Resources, Ministry of Health: \$533,050 per annum
<b>Band 2 – Executive Director level</b>
Mr Tim O’Connor, Executive Director, Criminal Investigations, NSW Crime Commission: \$409,500 per annum
Mr Jon Spark, Executive Director, Financial Investigations, NSW Crime Commission: \$379,500 per annum
Mr Stephen Loquet, Chief Information Officer, Department of Education: \$378,850 per annum

### Statutory and Other Offices Remuneration Tribunal

*Signed*

**Richard Grellman AM**

**Dated:** 7 September 2020