

**Public
Service
Senior
Executives**

**Annual
Determination**

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

**5 August
2021**

Public Service Senior Executives

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Section 1

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 then 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:

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- 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 may 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 remuneration including any new or increased superannuation cannot increase by more than 2.5 per cent per annum. 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.

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11. 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.

2020 Annual Determination

12. On 7 September 2020, the Tribunal determined that given the economic and social circumstances at the time, no increase would apply to the remuneration packages for PSSEs.

2020 - 2021 Special Determinations

13. The Tribunal has made four special determinations, pursuant to section 24P of the SOOR Act, since the making of the 2020 annual determination which amend that determination.
14. On 30 March 2021, the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Mr Robert Sharp, in the role of the Secretary of the Department of Transport, with a remuneration package of \$599,000 per annum effective from the date of his appointment being 7 April 2021.
15. On 20 April 2021, the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Ms Amy Brown, in the role of Chief Executive Officer of Investment NSW, with a remuneration package of \$570,000 per annum effective from the date of her appointment being 29 March 2021.
16. On 24 May 2021, the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Ms Georgina Harrison, in the role of the Secretary of the Department of Education, with a remuneration package of \$599,000 per annum effective from the date of her appointment being 24 May 2021.
17. On 27 May 2021, Tribunal determined to alter the range of remuneration packages for Band 2 PSSEs to provide Mr Andrew Kingsmill, in the role of Executive Director, Technical Advisory Services, Department of Planning, Industry and Environment, with a remuneration package of \$380,000 per annum.

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18. Two previous special determinations made by the Tribunal no longer apply as the executives named in the special determinations have vacated the specified roles since the making of the 2020 annual determination. Accordingly, the different remuneration packages that applied to Mr Samuel Sangster in the role of Chief Executive Officer, Western City and Aerotropolis Authority and Mr Stephen Loquet, Chief Information Officer, Department of Education have been removed from Determination No 1.
19. Special determinations are published on the NSW Remuneration Tribunals website.

Section 2

2021 Annual Review

Government Submission

20. The Secretary, Department of Premier and Cabinet provided the Government submission to the Tribunal on 2 June 2021. The submission was replaced by another Government submission provided on 15 July 2021. The Government submission advised that on 21 June 2021, the Government announced changes to the existing Wages Policy to provide for increases in remuneration or other conditions of employment of up to 2.5 per cent (inclusive of superannuation) for public sector employees. The submission recommends the following increases having regard to the increase in the SGC from 1 July 2021:

“In line with the revised Wages Policy it is now recommended that a 2.5 per cent increase in remuneration be applied to employees and other office holders whose total remuneration package (“TRP”) is determined by the Tribunal and an increase of 2.04 per cent for non-TRP employees and office holders effective from 1 July 2021.

The 2.04 per cent increase recommended for non-TRP employees and officers takes into account the increase to the Superannuation Guarantee Charge (“SGC”) of 0.5 percentage points from 1 July 2021 and uses the same methodology as applied when superannuation was last increased in 2014. This methodology recognises that superannuation is not payable on superannuation itself and as a result, the cost of the additional SGC is less than a 0.5 per cent pay increase. An increase of 2.04 per cent to salaries and 0.5 per cent to superannuation is consistent with the Wages Policy and does not increase employee related costs by more than 2.5 per cent.

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*

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- *Chief and Senior Executive Officers (SES)*
- *Judges and Magistrates Group*
- *Court and Related Officers Group*
- *Public Office Holders Group*

Superannuation Guarantee Contributions

21. Information published on the Australian Taxation Office website confirms the previous and future percentage increases to the superannuation guarantee since 1 July 2002, when the general superannuation guarantee was 9.00 per cent:

Date of increase	Percentage increase (%)	General super guarantee (%)
1 July 2013	.25	9.25
1 July 2014	.25	9.50
1 July 2021	.50	10.00
1 July 2022	.50	10.50
1 July 2023	.50	11.00
1 July 2024	.50	11.50
1 July 2025	.50	12.00

22. Under the SOOR Act, it is open to the Tribunal to determine an annual increase in remuneration of up to 2.5 per cent inclusive of increases to superannuation contributions. The Tribunal reviewed the impact of the SGC increase on PSSEs in the 2014 Annual Determination which was the last time that the SGC increased. In essence, in 2014 the Tribunal determined that the SGC increase did not affect the Tribunal's ability to determine an increase of up to 2.5 per cent for PSSEs as they receive a total remuneration package, from which the cost of the SGC must be funded. The Tribunal will adopt the same approach in 2021.

23. The Government submission outlines the Government's view of appropriate adjustments in respect of the SGC.

Section 3

2021 Annual Determination

General Increase

24. Having regard to the provisions of section 6AA of the SOOR Act, the Tribunal has determined an increase of 2.5 per cent to the minimum and maximum of the remuneration ranges for Bands 1 to 4. This increase is also applied to the remuneration packages for those senior executives named in the determination. This is consistent with the increases recommended in the Government submission. The new rates are set out in Determination No. 1.

25. The Tribunal consulted with the Assessors prior to making this determination.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 5 August 2021

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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 2021 shall be:

Public Sector Senior Executive Bands			
Band	Per annum range		
Band 4 - Secretary level	499,251	to	576,700
Band 3 - Deputy Secretary level	354,201	to	499,250
Band 2 - Executive Director level	281,551	to	354,200
Band 1 - Director level	197,400	to	281,550

Different remuneration packages that apply to the senior executives named
Band 4 – Secretary level
Mr Michael Fuller, Commissioner of Police: \$665,750 per annum
Mr Tim Reardon, Secretary, Department of Premier and Cabinet: \$644,850 per annum
Mr Jim Betts, Secretary, Department of Planning, Industry and Environment: \$620,650 per annum
Ms Elizabeth Koff, Secretary, Ministry of Health: \$614,000 per annum
Mr Michael Pratt, Secretary, NSW Treasury: \$614,000 per annum
Mr Georgina Harrisson, Secretary, Department of Education: \$614,000 per annum
Mr Robert Sharp, Secretary, Department of Transport: \$614,000 per annum
Mr Michael Coutts-Trotter, Secretary, Department of Communities and Justice: \$614,000 per annum
Ms Emma Hogan, Secretary, Department of Customer Service: \$614,000 per annum
Band 3 – Deputy Secretary level
Mr Simon Draper, Chief Executive Officer and Co-ordinator General, Infrastructure NSW: \$614,000 per annum
Dr Jim Bentley, Chief Executive Officer, Water NSW, Department of Planning, Industry and Environment: \$602,800 per annum
Mr Steffen Faurby, Managing Director, Technical and Further Education Commission: \$589,400 per annum
Ms Amy Brown, Chief Executive Officer, Investment NSW: \$584,250 per annum
Dr Nigel Lyons, Deputy Secretary, Strategy and Resources, Ministry of Health: \$546,700 per annum
Band 2 – Executive Director level
Mr Tim O’Connor, Executive Director, Criminal Investigations, NSW Crime Commission: \$419,750 per annum
Mr Jon Spark, Executive Director, Financial Investigations, NSW Crime Commission: \$389,000 per annum
Mr Andrew Kingsmill, Executive Director, Technical Advisory Services at the Department of Planning Industry and Environment: \$389,500 per annum

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Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 5 August 2021