

From: s 47E(c), s 47F(1)
Sent: Friday, 28 June 2024 4:02 PM
To: s 22(1)(b)(ii)
Cc: s 22(1)(b)(ii)
Subject: Assistance with briefing Senior Counsel [SEC=OFFICIAL:Sensitive]
Importance: High

OFFICIAL:Sensitive

Dear s 22(1)(b)(ii)

As discussed, we are looking to brief counsel to assist with the Inspector’s investigation. We are considering Justin Gleeson SC who has advised that his Cmth rate is s 11C(1) per day. I understand this will require the AG’s approval and we are concerned that we are short on time however the advice from his clerk is that it shouldn’t take the “usual period” and in the past this has been fast tracked? We may also need assistance to have a rate set for his junior.

Any advice you can provide on facilitating this would be appreciated. Please note his clerk is still to confirm that he can fit it in but suggested we start making inquiries re the process.

Kind regards,


s 47E(c), s 47F(1)
[Redacted]

M. s 47E(c), s 47F(1)
E. s 47E(c), s 47F(1) @nacc.gov.au

EA. s 22(1)(b)(ii)
M. s 22(1)(b)(ii)
P: s 22(1)(b)(ii)
E. s 47E(c), s 47F(1) @nacc.gov.au



nacc.gov.au



National Anti-Corruption Commission

We **acknowledge** the Traditional Owners and Custodians of Country throughout Australia.
We **recognise** their continuing connection to land, waters and community.
We **pay our respects** to the people, the cultures and the Elders past, present and emerging.

From: Philip Reed
Sent: Wednesday, 16 October 2024 1:51 PM
To: Nicole Rose; § 22(1)(b)(ii) ; § 47E(c), s 47F(1)
Subject: RE: Appt of Justin Gleeson [SEC=OFFICIAL]

OFFICIAL

Hi Nicole – noted thanks. Regards, Philip

From: Nicole Rose <§ 47E(c), s 47F(1)@nacc.gov.au>
Sent: Wednesday, October 16, 2024 12:27 PM
To: Philip Reed <§ 47E(c), s 47F(1)@nacc.gov.au>; § 22(1)(b)(ii)@nacc.gov.au; § 47E(c), s 47F(1)
<§ 47E(c), s 47F(1)@nacc.gov.au>
Subject: Appt of Justin Gleeson [SEC=OFFICIAL]

OFFICIAL

Hi Philip,

I had my regular, albeit short catch up with Simon Newnham this morning and I mentioned the challenges presented by AGS to engage Justin Gleeson, noting the time pressure we are under to try and confirm by the 21st.

He offered AGD assistance and thought § 22(1)(b)(ii) or § 22(1)(b)(ii) would be able to assist if that would help.

For your info.

Regards

Nicole.

Nicole Rose PSM
Deputy Commissioner

EA § 22(1)(b)(ii) § 22(1)(b)(ii)@nacc.gov.au § 22(1)(b)(ii)



nacc.gov.au



National Anti-Corruption Commission

In the spirit of reconciliation, the National Anti-Corruption Commission acknowledges the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

From: [Talbot, Jo](#)
To: [Philip Reed](#)
Subject: Email to APS Commissioner
Date: Thursday, 17 October 2024 7:20:05 AM

Hi Philip

I am happy to discuss with you your email. I am currently in the UK for work. If it's ok with you I can call you around 8am your time?

Regards

Jo

Sent from my iPhone

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.

From: [Philip Reed](#)
To: [Paul Brereton](#); s 22(1)(b)(ii); s 47E(c), s 47F(1)
Cc: s 22(1)(b)(ii); [Ben Gauntlett](#); [Kylie Kilgour](#); [Nicole Rose](#); s 47E(c), s 47F(1)
Subject: FW: APSC Executive Remuneration proposal form - National Anti-Corruption Commission [SEC=OFFICIAL:Sensitive]
Date: Tuesday, 29 October 2024 10:43:38 AM
Attachments: [APS Executive Remuneration proposal form - 2022 - signed CEO.pdf](#)

OFFICIAL:Sensitive

Fyi

From: Philip Reed
Sent: Tuesday, October 29, 2024 10:41 AM
To: michelle.coffill@apsc.gov.au
Cc: ExecRemStatOffices@apsc.gov.au
Subject: APSC Executive Remuneration proposal form - National Anti-Corruption Commission

Dear Michelle

Further to our discussion this morning, I have attached to this email an APS Remuneration proposal form seeking approval from the Australian Public Service Commissioner for an SES employee remuneration package valued in excess of the notional amount prescribed in the *APS Executive Remuneration Management Policy*.

The completed form contains details of the requirement to appoint an eminent person as a temporary SES employee, under the *Public Service Act 1999*, time limited to 6 months, to enable the NACC Commissioner to delegate to them, under section 276 of the *National Anti-Corruption Act 2022*, the task of independently reconsidering the Robodebt Royal Commission referrals.

Please note that the maximum possible amount of the engagement has increased from the figure mentioned over the telephone, owing to an error in the initial calculation.

I am happy to provide any further information that might assist in the consideration of this proposal. I would also appreciate being kept informed of the progress of the proposal by the APSC.

Regards, Philip

Philip Reed
CEO
NACC
s 47E(c), s 47F(1)

From: Philip Reed
To: Paul Brereton; § 47E(c), s 47F(1); § 22(1)(b)(ii); § 22(1)(b)(ii); § 47E(c), s 47F(1)
Cc: Nicole Rose
Subject: FW: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]
Date: Monday, 21 October 2024 5:33:00 PM
Attachments: [image001.jpg](#)
[image003.jpg](#)
[image004.jpg](#)
[Secondary Employment Policy - signed.pdf](#)
[image002.jpg](#)
Sensitivity: Confidential

s 47C(1)(a)

s 47C(1)(a)

Regards, Philip

From: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>
Sent: Monday, October 21, 2024 4:23 PM
To: Philip Reed § 47E(c), s 47F(1) @nacc.gov.au>
Cc: de Brouwer, Gordon <Gordon.deBrouwer@apsc.gov.au>; Talbot, Jo <Jo.Talbot@apsc.gov.au>
Subject: FW: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]
Sensitivity: Confidential

OFFICIAL:Sensitive

OFFICIAL: Sensitive

Dear Philip

Thank you for the discussion earlier today.

Three points by way of guidance/ procedural matters in the remit of the APSC to consider for the proposed engagement of a temporary SES officer.

1. Section 27 of the *Australian Public Service Commissioner's Directions 2022*
2. Engagement as an SES officer means that all the relevant terms of APS employment will apply to the individual, including the Code of Conduct under the Public Service Act
3. Approval under the Executive Remuneration Management policy

Section 27 of the Directions

This section allows an Agency Head to engage a person to perform duties as a non-ongoing APS employee for a specified term or the duration of a specified task, and the period of employment is less than 12 months. In limited circumstances under subsection 27(2), an engagement may be extended for a total period of engagement (including any extension) not exceeding 18 months.

All the relevant elements of the section must apply to the factual situation; and well documented, appropriate records kept relating to the application of the section to the proposed engagement.

One question the APSC receives relates to compliance with subsection 27(3):

(3) The Agency Head must ensure as far as practicable that such a vacancy is brought to the notice of the community in a way that gives eligible members of the community a reasonable opportunity to apply for it.

Example: A vacancy may be brought to the notice of the community by being advertised or access being provided to non-ongoing APS employment registers.

If the NACC has an existing non-ongoing APS employment register, this may evidence compliance with this subsection.

Otherwise, if relevant/ appropriate we recommend considering and documenting why it may not be 'practicable' to bring the vacancy to the notice of the community – for example, perhaps because of the very restricted number of people who may meet the *work-related qualities genuinely required to perform the relevant duties* (refer subsection 27(4) Directions); or the urgency with which the appointment needs to be made.

On a preliminary basis, other relevant provisions for the reliance on section 27 of the Directions are: Sections 23 and 26 of the Directions; section 12 of the *Public Service Regulations 2023*; and section 22 of the *Public Service Act 1999*.

SES officers are APS employees

A person engaged as an SES officer under the Public Service Act is an APS employee, subject to all the requirements of that employment, including, for example, compliance with the Code of Conduct at section 13 of the Act.

- This includes provisions relating to management of conflicts of interest (subsection 13(7) of the Act) and behaving at all times in way that upholds the APS Values and APS Employment Principles (section 13(11) of the Act).

These and other matters relevant to APS employment will be appropriate to draw out in any offer of employment.

This includes compliance with applicable approvals for 'outside' employment, if it is intended to make a part-time offer of employment and the eminent person intends to take on other work concurrently with APS employment. Depending on what you are engaging them to do, it may not be compatible with other work – I noticed there are restrictions on outside employment without approval on the CEO, Commissioner and Inspector roles under the NACC Act.

Executive Remuneration Management policy

This is a government policy that may apply, depending on the proposed quantum for engagement of the SES officer.

If the policy applies to the proposed engagement, approval should be sought from the Commissioner before an offer of employment is made.

Details, including relevant forms are available here:

<https://www.apsc.gov.au/publication/executive-remuneration-management-policy>

The relevant contact person for progressing an application for approval is: Michelle Coffill – details as follows:

Michelle Coffill OAM

A/g Assistant Commissioner | Executive Remuneration and Statutory Offices Branch
A/g Secretary | Remuneration Tribunal and Defence Force Remuneration Tribunal

Australian Public Service Commission

t: **02 6202 3556** e: ExecRemStatOffices@apsc.gov.au w: www.apsc.gov.au
Level 2, E Block, Treasury Building, King Edward Terrace, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

Please let me know if you have any further questions or wish to discuss.

Kind regards

Melanie

Melanie McIntyre (she/her)

General Counsel

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

t: **s 47F(1)** m: **s 47F(1)** w: www.apsc.gov.au

The APSC supports flexible working arrangements. If you receive an email from me outside of regular business hours, I am sending it at a time that suits me. I am not expecting you to read or reply until regular business hours.



From: de Brouwer, Gordon <Gordon.deBrouwer@apsc.gov.au>

Sent: Thursday, October 17, 2024 5:21 AM

To: Philip Reed <[s 47E\(c\), s 47F\(1\)@nacc.gov.au](mailto:s 47E(c), s 47F(1)@nacc.gov.au)>

Cc: Talbot, Jo <Jo.Talbot@apsc.gov.au>

Subject: Re: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose
[SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Philip

Thank you for raising the matter. I am aware of the issue, and we can work out a way. I am currently in NZ at meetings. I have copied in Jo Talbot, First Assistant Commissioner. Jo oversees SES issues. Can I suggest you speak with her in the first instance on a solution?

Thanks

Gordon

Sent from my iPhone

On 16 Oct 2024, at 8:30 pm, Philip Reed
<s 47E(c), s 47F(1)@nacc.gov.au> wrote:

OFFICIAL:Sensitive

Hi Gordon – The Commissioner has asked me to contact you to alert you to an issue we are currently grappling with, in conjunction with the Australian Government Solicitor, about how to appoint an eminent barrister to undertake the reconsideration of a recent Commission decision which requires the Commissioner to delegate his powers to that individual.

The Commissioner's powers of delegation, under s 276 of our Act, are limited to Deputy Commissioners, SES or acting SES and EL2s or acting EL2s. s 42(1)

This raises a series of challenging issues for the Commission but potentially also for the APSC given the APS Executive Remuneration Management Policy.

It would be good, if it were possible, to have a short discussion with you about why this proposal is being considered and to also gauge your views on it.

If you were able to find the time tomorrow for such a discussion, it would be greatly appreciated.

Regards, Philip

Philip Reed

CEO

NACC

s 47E(c), s 47F(1)

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Australian Government

National Anti-Corruption Commission

Secondary Employment Policy

Issued 6 July 2023

File Ref 23#31348DOC

1. Purpose

1.1 This policy sets out the expectations of the National Anti-Corruption Commission (NACC) and your responsibilities as a NACC employee in relation to secondary employment, also known as outside employment.

2. Legislative/Policy Basis

- 2.1 This policy is authorised under the *Public Service Act 1999* and the *Public Governance, Performance and Accountability Act 2013*.
- 2.2 Staff considering engaging in secondary employment should also read the NACC's Integrity Policy, Integrity Risk Reporting and Management documents, and Private Interest Declarations policy.

3. Background

- 3.1 It is possible that some forms of secondary employment may present a perceived, potential or actual conflict of interest with your official duties as a NACC employee. Some types of employment also have the potential to interfere with the ability of NACC employees to efficiently and effectively perform their duties.
- 3.2 The NACC therefore requires all employees to disclose the nature of any secondary employment to the NACC for consideration, prior to accepting or commencing that secondary employment.

4. What is covered by the term 'secondary employment'?

- 4.1 Secondary employment includes, but is not limited to, any of the following:
- paid work of any kind, with another employer;
 - unpaid work of any structured kind (such as committee or volunteer work);
 - working for another employer while on leave from the NACC (including long service, maternity or miscellaneous leave, whether with or without pay);
 - any activity that may be perceived as a conflict of interest.

s 47F(1)

5. Policy

- 5.1 Generally, staff members should not engage in secondary employment if it:
- could create a perceived or actual conflict of interest;
 - is likely to affect their ability to perform their official NACC duties;
 - cannot be performed wholly in private time; or
 - may reflect adversely on the NACC, the Australian Public Service or the Australian Government.
- 5.2 Prior to commencing any form of secondary employment, you must disclose your intent to engage in the employment, so that any risks can be assessed, and if required specific direction given on how to manage any actual, potential or perceived conflict of interest. Failure to comply with this, or any, direction by the NACC may be construed as a breach of the APS Code of Conduct.
- 5.3 Ongoing secondary employment in connection with an entity or business that may meet the definitions set out in the NACC Private Interest Declarations policy must be declared as required by that policy.
- 5.4 The APS Code of Conduct applies to out-of-hours conduct in certain circumstances, which may mean you are expected to comply with the Code of Conduct while engaged in secondary employment.

6. Application process

- 6.1 Applications for secondary employment must be lodged using the *Notification of Secondary Employment* form available on the NACC intranet.
- 6.2 The requirement for staff to declare secondary employment should be discussed with candidates prior to formal offer so potential staff can make an informed decision on the offer. Where the candidate has a form of secondary employment outside their regular role (i.e. the position they are transferring from to the NACC), the pre-existing secondary employment should be disclosed as part of their engagement and no later than onboarding.

7. Review and revocation of approval

- 7.1 Your secondary employment arrangements, and the NACC's approval of the arrangements, can be reviewed and/or revoked at any time if it is considered that the risks associated with the secondary employment arrangements are not being managed appropriately, or if any circumstances or risks have changed.
- 7.2 You must inform your manager of any change in the nature or circumstances of your approved secondary employment arrangements, and these must be reported in line with the NACC's Integrity Risk Reporting and Management policy.
- 7.3 If you are unhappy with a decision made in accordance with this policy, you may seek a review by emailing the HR Assist inbox.

s 47F(1)

8. Review or variation of this policy

- 8.1 This policy will be reviewed as necessary to ensure consistency with legislation, government policy, organisational changes within the NACC and/or changes in the working environment. It may also be reviewed at the request of employees.

9. Approval



Philip Reed
Chief Executive Officer
July 2023

From: Philip Reed
To: McIntyre, Melanie
Cc: Talbot, Jo
Subject: Re: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]
Date: Wednesday, 23 October 2024 6:37:17 PM
Attachments: [image004.jpg](#)
[image005.jpg](#)
[image002.jpg](#)
Sensitivity: Confidential



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From: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>
Sent: Wednesday, October 23, 2024 6:16:02 PM
To: Philip Reed s 47E(c), s 47F(1)@nacc.gov.au>
Cc: Talbot, Jo <Jo.Talbot@apsc.gov.au>
Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

OFFICIAL: Sensitive

Hi Philip

Thank you – I wanted to let you know that I will be at a conference tomorrow but will be able to duck out to answer questions.

Also – another matter for consideration by the NACC is the impact of hiring an additional SES staff member on your approved no of SES for the entity (referred to as the SES cohort).

Additional approval may be required. Here is some initial information on our website: [SES cohort | Australian Public Service Commission](#)

Kind regards
Melanie.

From: Philip Reed s 47E(c), s 47F(1)@nacc.gov.au>
Sent: Monday, 21 October 2024 5:19 PM
To: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>
Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of

a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]

Sensitivity: Confidential

OFFICIAL:Sensitive

Hi Melanie – thank you for the opportunity to discuss this proposed engagement issue with you today and your helpful email in reply.

I have read through points you have raised and will pass them on to others within the Commission.

I am likely to come back to you with some questions in coming days. I also note the contact details for Michelle Coffill in relation to any approval being put forward for the Commissioner's consideration.

Regards, Philip

From: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>

Sent: Monday, October 21, 2024 4:23 PM

To: Philip Reed § 47E(c), s 47F(1) <Philip.Reed@nacc.gov.au>

Cc: de Brouwer, Gordon <Gordon.deBrouwer@apsc.gov.au>; Talbot, Jo <Jo.Talbot@apsc.gov.au>

Subject: FW: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]

Sensitivity: Confidential

OFFICIAL:Sensitive

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Dear Philip

Thank you for the discussion earlier today.

Three points by way of guidance/ procedural matters in the remit of the APSC to consider for the proposed engagement of a temporary SES officer.

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2. Engagement as an SES officer means that all the relevant terms of APS employment will apply to the individual, including the Code of Conduct under the Public Service Act
3. Approval under the Executive Remuneration Management policy

Section 27 of the Directions

This section allows an Agency Head to engage a person to perform duties as a non-ongoing APS employee for a specified term or the duration of a specified task, and the period of employment is less than 12 months. In limited circumstances under subsection 27(2), an engagement may be

extended for a total period of engagement (including any extension) not exceeding 18 months.

All the relevant elements of the section must apply to the factual situation; and well documented, appropriate records kept relating to the application of the section to the proposed engagement.

One question the APSC receives relates to compliance with subsection 27(3):

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Otherwise, if relevant/ appropriate we recommend considering and documenting why it may not be 'practicable' to bring the vacancy to the notice of the community – for example, perhaps because of the very restricted number of people who may meet the *work-related qualities genuinely required to perform the relevant duties* (refer subsection 27(4) Directions); or the urgency with which the appointment needs to be made.

On a preliminary basis, other relevant provisions for the reliance on section 27 of the Directions are: Sections 23 and 26 of the Directions; section 12 of the *Public Service Regulations 2023*; and section 22 of the *Public Service Act 1999*.

SES officers are APS employees

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- This includes provisions relating to management of conflicts of interest (subsection 13(7) of the Act) and behaving at all times in way that upholds the APS Values and APS Employment Principles (section 13(11) of the Act).

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Executive Remuneration Management policy

This is a government policy that may apply, depending on the proposed quantum for engagement of the SES officer.

If the policy applies to the proposed engagement, approval should be sought from the Commissioner before an offer of employment is made.

Details, including relevant forms are available here:

<https://www.apsc.gov.au/publication/executive-remuneration-management-policy>

The relevant contact person for progressing an application for approval is: Michelle Coffill – details as follows:

Michelle Coffill OAM

A/g Assistant Commissioner | Executive Remuneration and Statutory Offices Branch
A/g Secretary | Remuneration Tribunal and Defence Force Remuneration Tribunal

Australian Public Service Commission

t: 02 6202 3556 e: ExecRemStatOffices@apsc.gov.au w: www.apsc.gov.au
Level 2, E Block, Treasury Building, King Edward Terrace, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

Please let me know if you have any further questions or wish to discuss.

Kind regards
Melanie

Melanie McIntyre (she/her)

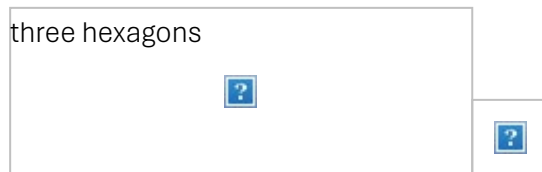
General Counsel

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

t: **s 47F(1)** m: **s 47F(1)** w: www.apsc.gov.au

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From: de Brouwer, Gordon <Gordon.deBrouwer@apsc.gov.au>

Sent: Thursday, October 17, 2024 5:21 AM

To: Philip Reed <[s 47E\(c\), s 47F\(1\)@nacc.gov.au](mailto:s 47E(c), s 47F(1)@nacc.gov.au)>

Cc: Talbot, Jo <Jo.Talbot@apsc.gov.au>

Subject: Re: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose
[SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Philip

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Thanks

Gordon

Sent from my iPhone

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s 47E(c), s 47F(1) [@nacc.gov.au](mailto:Philip.Reed@nacc.gov.au) wrote:

OFFICIAL:Sensitive

Hi Gordon – The Commissioner has asked me to contact you to alert you to an issue we are currently grappling with, in conjunction with the Australian Government Solicitor, about how to appoint an eminent barrister to undertake the reconsideration of a recent Commission decision which requires the Commissioner to delegate his powers to that individual.

The Commissioner's powers of delegation, under s 276 of our Act, are limited to Deputy Commissioners, SES or acting SES and EL2s or acting EL2s. s 42(1)

This raises a series of challenging issues for the Commission but potentially also for the APSC given the APS Executive Remuneration Management Policy.

It would be good, if it were possible, to have a short discussion with you about why this proposal is being considered and to also gauge your views on it.

If you were able to find the time tomorrow for such a discussion, it would be greatly appreciated.

Regards, Philip

Philip Reed

CEO

NACC

s 47E(c), s 47F(1)

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From: [Philip Reed](#)
To: [McIntyre, Melanie](#)
Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]
Date: Thursday, 24 October 2024 4:47:00 PM
Attachments: [image001.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image003.jpg](#)
Sensitivity: Confidential

Hi Melanie – noted thank you. Regards, Philip

From: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>
Sent: Thursday, October 24, 2024 4:45 PM
To: Philip Reed <§ 47E(c), § 47F(1)@nacc.gov.au>
Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]
Sensitivity: Confidential

OFFICIAL:Sensitive

OFFICIAL: Sensitive

Thank you Philip – apologies no there are gremlins in my system!
I am glad you have the support you need within your agency, please reach out if you have any other questions.

Kind regards
Melanie.

From: Philip Reed <§ 47E(c), § 47F(1)@nacc.gov.au>
Sent: Thursday, 24 October 2024 4:33 PM
To: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>
Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]
Sensitivity: Confidential

OFFICIAL:Sensitive

Hi Melanie – not sure if you meant to send this message again, as it was the same one you sent late yesterday that I responded to yesterday. Regards, Philip

From: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>
Sent: Thursday, October 24, 2024 4:30 PM
To: Philip Reed <§ 47E(c), § 47F(1)@nacc.gov.au>
Cc: Talbot, Jo <Jo.Talbot@apsc.gov.au>
Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]

Sensitivity: Confidential

OFFICIAL:Sensitive

OFFICIAL: Sensitive

Hi Philip

Thank you – I wanted to let you know that I will be at a conference tomorrow but will be able to duck out to answer questions.

Also – another matter for consideration by the NACC is the impact of hiring an additional SES staff member on your approved no of SES for the entity (referred to as the SES cohort).

Additional approval may be required. Here is some initial information on our website: [SES cohort | Australian Public Service Commission](#)

Kind regards
Melanie.

From: Philip Reed § 47E(c), § 47F(1) [@nacc.gov.au](mailto:Philip.Reed@nacc.gov.au)>

Sent: Monday, 21 October 2024 5:19 PM

To: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>

Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]

Sensitivity: Confidential

OFFICIAL:Sensitive

Hi Melanie – thank you for the opportunity to discuss this proposed engagement issue with you today and your helpful email in reply.

I have read through points you have raised and will pass them on to others within the Commission.

I am likely to come back to you with some questions in coming days. I also note the contact details for Michelle Coffill in relation to any approval being put forward for the Commissioner's consideration.

Regards, Philip

From: McIntyre, Melanie <Melanie.McIntyre@apsc.gov.au>

Sent: Monday, October 21, 2024 4:23 PM

To: Philip Reed § 47E(c), § 47F(1) [@nacc.gov.au](mailto:Philip.Reed@nacc.gov.au)>

Cc: de Brouwer, Gordon <Gordon.deBrouwer@apsc.gov.au>; Talbot, Jo <Jo.Talbot@apsc.gov.au>

Subject: FW: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]

Sensitivity: Confidential

OFFICIAL:Sensitive

OFFICIAL: Sensitive

Dear Philip

Thank you for the discussion earlier today.

Three points by way of guidance/ procedural matters in the remit of the APSC to consider for the proposed engagement of a temporary SES officer.

1. Section 27 of the *Australian Public Service Commissioner's Directions 2022*
2. Engagement as an SES officer means that all the relevant terms of APS employment will apply to the individual, including the Code of Conduct under the Public Service Act
3. Approval under the Executive Remuneration Management policy

Section 27 of the Directions

This section allows an Agency Head to engage a person to perform duties as a non-ongoing APS employee for a specified term or the duration of a specified task, and the period of employment is less than 12 months. In limited circumstances under subsection 27(2), an engagement may be extended for a total period of engagement (including any extension) not exceeding 18 months.

All the relevant elements of the section must apply to the factual situation; and well documented, appropriate records kept relating to the application of the section to the proposed engagement.

One question the APSC receives relates to compliance with subsection 27(3):

(3) The Agency Head must ensure as far as practicable that such a vacancy is brought to the notice of the community in a way that gives eligible members of the community a reasonable opportunity to apply for it.

Example: A vacancy may be brought to the notice of the community by being advertised or access being provided to non-ongoing APS employment registers.

If the NACC has an existing non-ongoing APS employment register, this may evidence compliance with this subsection.

Otherwise, if relevant/ appropriate we recommend considering and documenting why it may not be 'practicable' to bring the vacancy to the notice of the community – for example, perhaps because of the very restricted number of people who may meet the *work-related qualities genuinely required to perform the relevant duties* (refer subsection 27(4) Directions); or the urgency with which the appointment needs to be made.

On a preliminary basis, other relevant provisions for the reliance on section 27 of the Directions are: Sections 23 and 26 of the Directions; section 12 of the *Public Service Regulations 2023*; and section 22 of the *Public Service Act 1999*.

SES officers are APS employees

A person engaged as an SES officer under the Public Service Act is an APS employee, subject to all the requirements of that employment, including, for example, compliance with the Code of Conduct at section 13 of the Act.

- This includes provisions relating to management of conflicts of interest (subsection 13(7) of the Act) and behaving at all times in way that upholds the APS Values and APS Employment Principles (section 13(11) of the Act).

These and other matters relevant to APS employment will be appropriate to draw out in any offer of employment.

This includes compliance with applicable approvals for 'outside' employment, if it is intended to make a part-time offer of employment and the eminent person intends to take on other work concurrently with APS employment. Depending on what you are engaging them to do, it may not be compatible with other work – I noticed there are restrictions on outside employment without approval on the CEO, Commissioner and Inspector roles under the NACC Act.

Executive Remuneration Management policy

This is a government policy that may apply, depending on the proposed quantum for engagement of the SES officer.

If the policy applies to the proposed engagement, approval should be sought from the Commissioner before an offer of employment is made.

Details, including relevant forms are available here:

<https://www.apsc.gov.au/publication/executive-remuneration-management-policy>

The relevant contact person for progressing an application for approval is: Michelle Coffill – details as follows:

Michelle Coffill OAM

A/g Assistant Commissioner | Executive Remuneration and Statutory Offices Branch
A/g Secretary | Remuneration Tribunal and Defence Force Remuneration Tribunal

Australian Public Service Commission

t: **02 6202 3556** e: ExecRemStatOffices@apsc.gov.au w: www.apsc.gov.au
Level 2, E Block, Treasury Building, King Edward Terrace, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

Please let me know if you have any further questions or wish to discuss.

Kind regards
Melanie

Melanie McIntyre (she/her)

General Counsel

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

t: **s 47F(1)** m: **s 47F(1)** w: www.apsc.gov.au

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hours, I am sending it at a time that suits me. I am not expecting you to read or reply until regular business hours.



From: de Brouwer, Gordon <Gordon.deBrouwer@apsc.gov.au>

Sent: Thursday, October 17, 2024 5:21 AM

To: Philip Reed <[s 47E\(c\), s 47F\(1\)@nacc.gov.au](mailto:s 47E(c), s 47F(1)@nacc.gov.au)>

Cc: Talbot, Jo <Jo.Talbot@apsc.gov.au>

Subject: Re: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose
[SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Philip

Thank you for raising the matter. I am aware of the issue, and we can work out a way. I am currently in NZ at meetings. I have copied in Jo Talbot, First Assistant Commissioner. Jo oversees SES issues. Can I suggest you speak with her in the first instance on a solution?

Thanks

Gordon

Sent from my iPhone

On 16 Oct 2024, at 8:30 pm, Philip Reed
<[s 47E\(c\), s 47F\(1\)@nacc.gov.au](mailto:s 47E(c), s 47F(1)@nacc.gov.au)> wrote:

OFFICIAL:Sensitive

Hi Gordon – The Commissioner has asked me to contact you to alert you to an issue we are currently grappling with, in conjunction with the Australian Government Solicitor, about how to appoint an eminent barrister to undertake the reconsideration of a recent Commission decision which requires the Commissioner to delegate his powers to that individual.

The Commissioner's powers of delegation, under s 276 of our Act, are limited to Deputy Commissioners, SES or acting SES and EL2s or acting EL2s. s 42(1)

This raises a series of challenging issues for the Commission but potentially also for the APSC given the APS Executive Remuneration Management Policy.

It would be good, if it were possible, to have a short discussion with you about why this proposal is being considered and to also gauge your views on it.

If you were able to find the time tomorrow for such a discussion, it would be greatly appreciated.

Regards, Philip

Philip Reed
CEO
NACC

s 47E(c), s 47F(1)

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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.

From: [Philip Reed](#)
To: [Coffill, Michelle](#)
Subject: RE: Executive remuneration matter - paused [SEC=OFFICIAL]
Date: Thursday, 31 October 2024 6:02:00 PM

Hi Michelle – excellent and thank you for your assistance to date. Much appreciated. We will be in contact again no doubt. Regards, Philip

From: Coffill, Michelle <Michelle.Coffill@apsc.gov.au>
Sent: Thursday, October 31, 2024 6:00 PM
To: Philip Reed <§ 47E(c), s 47F(1)@nacc.gov.au>
Subject: RE: Executive remuneration matter - paused [SEC=OFFICIAL]

OFFICIAL

OFFICIAL

Hi Philip,

Apologies for missing your call earlier.

Noting your advice of the need to withdraw the executive remuneration proposal that was put forward this week, I confirm no further action will be taken by the Commissioner on the request.

Kind regards,

Michelle

Michelle Coffill OAM

A/g Assistant Commissioner | Executive Remuneration and Statutory Offices Branch
A/g Secretary | Remuneration Tribunal and Defence Force Remuneration Tribunal

Australian Public Service Commission

t: 02 6202 3556 e: ExecRemStatOffices@apsc.gov.au w: www.apsc.gov.au
Level 2, E Block, Treasury Building, King Edward Terrace, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

Remuneration Tribunal Secretariat

t: 02 6202 3930 e: Enquiry@RemTribunal.gov.au w: www.remtribunal.gov.au
GPO Box 419, Canberra ACT 2601

Defence Force Remuneration Tribunal Secretariat

t: 02 6202 3784 e: dfrt@dfrt.gov.au w: www.dfrt.gov.au
GPO Box 2761, Canberra ACT 2601

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From: Philip Reed <§ 47E(c), s 47F(1)@nacc.gov.au>

Sent: Thursday, 31 October 2024 9:24 AM
To: Coffill, Michelle <Michelle.Coffill@apsc.gov.au>
Subject: RE: Executive remuneration matter - paused [SEC=OFFICIAL]

OFFICIAL

Hi Michelle – thank you. Regards, Philip

From: Coffill, Michelle <Michelle.Coffill@apsc.gov.au>
Sent: Thursday, October 31, 2024 9:20 AM
To: Philip Reed <§ 47E(c), § 47F(1) @nacc.gov.au>
Subject: Executive remuneration matter - paused [SEC=OFFICIAL]

OFFICIAL

OFFICIAL

Dear Philip,

Confirming consideration of the executive remuneration matter has been paused pending further advice from you.

Kind regards,

Michelle

Michelle Coffill OAM

A/g Assistant Commissioner | Executive Remuneration and Statutory Offices Branch
A/g Secretary | Remuneration Tribunal and Defence Force Remuneration Tribunal

Australian Public Service Commission

t: 02 6202 3556 e: ExecRemStatOffices@apsc.gov.au w: www.apsc.gov.au
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Defence Force Remuneration Tribunal Secretariat

t: 02 6202 3784 e: dfrt@dfrt.gov.au w: www.dfrt.gov.au
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From: [Philip Reed](#)
To: [Coffill, Michelle](#)
Subject: RE: APSC Executive Remuneration proposal form - National Anti-Corruption Commission [SEC=OFFICIAL:Sensitive]
Date: Tuesday, 29 October 2024 10:52:00 AM

Hi Michelle – noted thanks. Regards, Philip

From: Coffill, Michelle <Michelle.Coffill@apsc.gov.au>
Sent: Tuesday, October 29, 2024 10:48 AM
To: Philip Reed <§ 47E(c), § 47F(1)@nacc.gov.au>
Cc: Executive Remuneration Statutory Offices <ExecRemStatOffices@apsc.gov.au>
Subject: RE: APSC Executive Remuneration proposal form - National Anti-Corruption Commission [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

OFFICIAL: Sensitive

Dear Philip,

Confirming receipt of the Executive Remuneration proposal form.

I'll keep you updated on the progress of the matter.

Kind regards,

Michelle

Michelle Coffill OAM

A/g Assistant Commissioner | Executive Remuneration and Statutory Offices Branch
A/g Secretary | Remuneration Tribunal and Defence Force Remuneration Tribunal

Australian Public Service Commission

t: 02 6202 3556 e: ExecRemStatOffices@apsc.gov.au w: www.apsc.gov.au
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Defence Force Remuneration Tribunal Secretariat

t: 02 6202 3784 e: dfrt@dfrt.gov.au w: www.dfrt.gov.au
GPO Box 2761, Canberra ACT 2601

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From: Philip Reed <§ 47E(c), § 47F(1)@nacc.gov.au>

Sent: Tuesday, 29 October 2024 10:41 AM

To: Coffill, Michelle <Michelle.Coffill@apsc.gov.au>

Cc: Executive Remuneration Statutory Offices <ExecRemStatOffices@apsc.gov.au>

Subject: APSC Executive Remuneration proposal form - National Anti-Corruption Commission
[SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Dear Michelle

Further to our discussion this morning, I have attached to this email an APS Remuneration proposal form seeking approval from the Australian Public Service Commissioner for an SES employee remuneration package valued in excess of the notional amount prescribed in the *APS Executive Remuneration Management Policy*.

The completed form contains details of the requirement to appoint an eminent person as a temporary SES employee, under the *Public Service Act 1999*, time limited to 6 months, to enable the NACC Commissioner to delegate to them, under section 276 of the *National Anti-Corruption Act 2022*, the task of independently reconsidering the Robodebt Royal Commission referrals.

Please note that the maximum possible amount of the engagement has increased from the figure mentioned over the telephone, owing to an error in the initial calculation.

I am happy to provide any further information that might assist in the consideration of this proposal. I would also appreciate being kept informed of the progress of the proposal by the APSC.

Regards, Philip

Philip Reed

CEO

NACC

s 47F(1), s 47E(c)

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From: [Philip Reed](#)
To: [de Brouwer, Gordon](#)
Cc: [Talbot, Jo](#)
Subject: RE: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]
Date: Thursday, 17 October 2024 1:44:00 PM

Hi Gordon – thank you for your rapid reply. Jo tried to contact me but the time difference (me in Brisbane) didn't quite work. Hopefully late today Brisbane time may work from her UK time.
Regards, Philip

From: de Brouwer, Gordon <Gordon.deBrouwer@apsc.gov.au>
Sent: Thursday, October 17, 2024 5:21 AM
To: Philip Reed <[REDACTED]@nacc.gov.au>
Cc: Talbot, Jo <Jo.Talbot@apsc.gov.au>
Subject: Re: Confidential - Sensitive matter to discuss with you about a proposed engagement of a temporary SES officer for a specific purpose [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Philip

Thank you for raising the matter. I am aware of the issue, and we can work out a way. I am currently in NZ at meetings. I have copied in Jo Talbot, First Assistant Commissioner. Jo oversees SES issues. Can I suggest you speak with her in the first instance on a solution?

Thanks

Gordon

Sent from my iPhone

On 16 Oct 2024, at 8:30 pm, Philip Reed <[REDACTED]@nacc.gov.au> wrote:

OFFICIAL:Sensitive

Hi Gordon – The Commissioner has asked me to contact you to alert you to an issue we are currently grappling with, in conjunction with the Australian Government Solicitor, about how to appoint an eminent barrister to undertake the reconsideration of a recent Commission decision which requires the Commissioner to delegate his powers to that individual.

The Commissioner's powers of delegation, under s 276 of our Act, are limited to Deputy Commissioners, SES or acting SES and EL2s or acting EL2s. AGS are of

the view that we will need to appoint the eminent person as an acting SES to enable the appointment to proceed.

This raises a series of challenging issues for the Commission but potentially also for the APSC given the APS Executive Remuneration Management Policy.

It would be good, if it were possible, to have a short discussion with you about why this proposal is being considered and to also gauge your views on it.

If you were able to find the time tomorrow for such a discussion, it would be greatly appreciated.

Regards, Philip

Philip Reed

CEO

NACC

s 47E(c), s 47F(1)

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From: [Philip Reed](#)
To: [Talbot, Jo](#)
Subject: RE: Email to APS Commissioner
Date: Thursday, 17 October 2024 12:03:00 PM

Hi Jo - apologies given all the time differences. Have sent you a text to see if we could reschedule to later today Qld time. Regards, PHilip

-----Original Message-----

From: Talbot, Jo <Jo.Talbot@apsc.gov.au>
Sent: Thursday, October 17, 2024 7:20 AM
To: Philip Reed § 47E(c), s 47F(1)@nacc.gov.au>
Subject: Email to APS Commissioner

Hi Philip

I am happy to discuss with you your email. I am currently in the UK for work. If it's ok with you I can call you around 8am your time?

Regards

Jo

Sent from my iPhone

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