

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON PUBLIC SECTOR EXECUTIVE APPOINTMENTS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON MONDAY 17 NOVEMBER 2008.

Mr ROBERT WATLING, STATE SERVICE COMMISSIONER, OFFICE OF THE STATE SERVICE COMMISSIONER; **Mr FRANK OGLE**, DIRECTOR, PUBLIC SECTOR MANAGEMENT OFFICE; AND **Mr RHYS EDWARDS**, SECRETARY, PUBLIC SECTOR MANAGEMENT OFFICE, DEPARTMENT OF PREMIER AND CABINET WERE SWORN, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Harriss) - Welcome, gentlemen. Our reason for asking you to attend is primarily so that we can understand the role of the State Service Commissioner with regard to public service appointments. I suppose what we are wanting to do is to understand for ourselves where that jurisdiction stops and where the executive of the Government has the right or prerogative to proceed with senior public sector appointments.

Mr WATLING - I have a few points to make at the start to put things in context. I notice that the terms of reference talk about best practice for appointment of individuals to senior Tasmanian public sector executive positions. I have read that to mean the public sector and not the State Service, or to include the State Service. I think in any report you put forward you should clearly delineate the difference between the public service - and I hear it bandied around a lot; people talk generally about the public service - and the State Service, which is one aspect of the public service. We have, for example, government business enterprises, State-owned companies, statutory authorities, public bodies, local government, a myriad of tribunals - I think at the last count it was over 30 tribunals - and senior appointments in the police area. However, my role as State Service Commissioner only deals with matters falling within the purview of the State Service Act. The State Service is just one aspect of the public service, in fact probably a very narrow aspect of the Public Service. When you look at, for example, the appointments of heads of department, we are really talking about only seven appointments. The Port Arthur Authority, Public Trust Office and all these others are statutory authorities or government business enterprises.

I take it that my attendance here today is only in relation to the State Service. That is all I can comment on because, as the State Service Commissioner, I am not the public service commissioner, as in other States. I have a very narrow purview, as I said, under the State Service Act 2000. I need to make that point right from the start because, if we're looking at appointments to the public sector generally, there would be hundreds of appointments to boards, authorities and tribunals. I wouldn't be able to tally them all up; we are talking big numbers here.

I am going to narrow my comments today to the State Service. As you would be aware, under the State Service Act I am required to report to Parliament annually on things that happen in the State Service, not the public service, and that line needs to be drawn between the State Service and the public service. I heard someone the other day refer to it as 'the public service proper'. I don't know what we mean by all this. If we get the

jargon right, I think it would help immensely. I clearly see a difference between the State Service, and employees appointed under the State Service Act, as opposed to the public service. State-owned companies such as Aurora, the Ports Corporation, TOTE, Transend all have public servants but I don't have any jurisdiction over them.

When I first came into office in January 2004 it was obvious that there was a bit of a conflict of interest between the role of the State Service Commissioner in his statutory function and the employment function. From February 2004 I delegated all the employer-type functions to the Secretary of the Department of Premier and Cabinet and out of that we have established the current body, the Public Sector Management Office, to carry out those delegations. Why did I do it? Because I was clearly of the view that there was a need to separate the statutory office functions of the State Service Commissioner from the employment and employment functions. The crazy part about the act as it stands at the moment is that, if I were to take on all the issues delegated to me under the act, State servants would apply to me with my statutory office hat on, I would have made the policy, put the procedure into place, made the selections or whatever, and then I would have to review it. I would never be wrong and therefore to -

Mr WILKINSON - Not a bad conclusion, Bob.

Mr WATLING - Yes, that is right, a nice sort of thing to have. But, in all fairness, I think the system has worked really well since there has been the separation between the employment-type functions and the statutory office-type functions. As a statutory office-holder I now evaluate and review management and employment practices in the State Service only. Therefore my report to Parliament in the next couple of days will only be in relation to the State Service. I have presented other reports in the past and you will clearly see the role, function, structure and even the issues that have been delegated.

When it comes to making appointments, I do not get involved in making the appointments. At the lower level of the State Service, State servants are entitled to a review arising out of a merit selection process. My office carries out those reviews and then an employee has a right under the act to make an application for a review of a decision made on merit or procedure to gain appointment. However, that does not apply up at the top level. We are really talking about only seven department heads, some Senior Executive Service people and some senior specialists that come into the system who may be State servants and also specialist medical practitioners or something of that nature.

Mr WILKINSON - How many would that be, say 25 or so?

Mr WATLING - No. Last year we were looking at 228 in the Senior Executive Service but overall, including equivalent specialist department heads, we were looking at 284 out of a State Service of about 28 000. You will notice in my last report to Parliament at page 60 I have clearly spelled out the agencies. I have broken it down into head of agency, prescribed office holders, senior executive and senior executive specialist. It will appear in this year's report, to be sent in tomorrow or the next day and to be tabled in Parliament whenever they get around to it.

Mr WILKINSON - A significant sum, 284, and they are senior executive people.

Mr WATLING - Yes, though I just ask you to exercise some caution in relation to the Senior Executive Service. I note on page 18 of last year's report and I will note again in this year's annual report the number of Senior Executive Service appointments. However, my note of caution is that, at the bottom level of the Senior Executive Service, a lot of people have crept into that level because of previous inefficiencies in the award arrangements. The award arrangements only went to level 12 and then you had to move somewhere to get some pay increase. At the bottom level I think we have some bracket creep into the Senior Executive Service but, if you were to ask me whether I think that they are true executive officers, they may not be. The recent award negotiations and agreement that has been ratified in the commission caters for people who need to move up past level 12 but may not be in the senior executive service. Hopefully, in future some of that bottom rung may be sorted out. So even though we have a number, I would suggest you exercise some caution, because how did they get in the bottom one or two levels of the senior executive service? I could understand that argument if we are looking at level 4 of the senior executive service and department heads, but I am a bit worried down the bottom that it may not be a true reflection of Senior Executive Service.

CHAIR - What sort of a number, Bob?

Mr WATLING - I don't know. Frank might be in a better position. I don't have the precise numbers in relation to levels 1 and 2 in particular, but there could well be a quarter of those or even more. I hope the new award system will straighten that out. In my previous occupation, I was always a bit concerned that cutting off at level 12 in the clerical award was always going to create problems. Where do people go if they can't get past level 12? In this day and age, whether we like it or not, there needs to be some attraction and retention component of a wage. We would be missing out on gaining reasonably senior employees. So they were obviously going to move a little bit into that area.

In my annual report, and also in the one coming up, I have noted the ones that have been advertised. In the main, I believe they are advertised. There may be some discrepancies around the edges, but I noted last year that 54 vacancies were advertised and only 25 were filled. I noted also the appointments that came from outside the State Service. Last year it showed that 54 were advertised, 25 were appointed to the State Service, of which 14 came from outside the State Service. I will have a similar scale in this year's annual report.

Mr WILKINSON - What happened to the balance?

Mr WATLING - I don't know. There could be myriad reasons. They may not have been suitable candidates. I haven't asked that question. It is not uncommon to advertise Senior Executive Service roles.

Having made those comments, and also the difference between the State Service and the Public Service, I am happy to answer any questions you may wish to ask me.

Mr WILKINSON - The obvious question is in relation to the terms of reference and best practice for the appointment of individuals to fill these positions. If you were setting out the plan of best practice, what would you do?

Mr WATLING - In terms of Senior Executive Service, I probably wouldn't do any more than advertise the vacancies.

Mr WILKINSON - And then?

Mr WATLING - Can I add something else to the Senior Executive Service? There are people who embark on a course of training to deliver good public service administration, and may be participating in courses through ANZSOG and a number of other organisations to get into the senior executive. If there is forward planning and a system in place that allows someone to progress through this system and get to the end, I think there should be some rewards. For example, if you put in four years to go through a program that could lead you to a Senior Executive Service position I think you should get there. Otherwise there is no incentive for anyone in the public service to embark on any course, because you do all this work over four years to go through some formalised program and then you may or may not get somewhere at the end.

Mr MARTIN - Do you know of situations where that has occurred?

Mr WATLING - No, in Tasmania it is somewhat limited but my understanding is that in other places they do embark on training programs to look at people moving into the senior executive. We have an ageing population in the State Service. You will notice from my annual report the graph shows that everyone is moving to the right of the graph, in their late forties and fifties. If we do not plan for the future and do something to get people coming through then we are going to be thin on the ground in relation to the senior executives in the State Service.

Mr WILKINSON - Bob, while I hear what you say, that if a person works through the process the reward should be that that person is going to be a senior executive, but that also might be a hindrance to the new ones coming on. They might see a number of people in front of them. They believe they have the new degree, they believe they have the wherewithal to do it. Some might argue that it is hindering them from going into the State Service as well, because they realise that there are three or four who have gone through this program that are before them.

Mr WATLING - I understand the comment but I still say we need some forward planning in the State Service to move people through the system. The State Service is a unique beast. I think people from outside the system find it hard coming into the system to even understand the way the system works, briefings and a whole series of things. You need some understanding of how government functions. I am not saying that that is the only avenue, I am only suggesting that if there were some formal program in place that would be one avenue. The only other avenue would be to advertise. I am not opposed to that and indeed my report shows that positions are advertised at the senior executive level.

Mr WILKINSON - Were those 54 advertisements to fill 54 positions? Or were there positions that were filled without having to advertise through the process you are talking about?

Mr WATLING - I put in my report the number of vacancies advertised, so there must have been vacancies in the first place to advertise them. For example, the first one I look at is

Department of Economic Development. They have 24 senior executives. They advertised four and appointed three, one of whom came from outside the State Service.

Mr WILKINSON - And that takes into account all appointments, does it? What about any that were not advertised, where people rose up in, say, the Department of Economic Development without the need for an advertisement? In other words, Paul Harriss has gone through the process, there was a position available, he immediately stepped into that position -

Mr WATLING - I do not think there is any formal process in place in Tasmania in that regard.

Mr WILKINSON - I agree with that, and that is what we are trying to find out.

Mr WATLING - Yes. I do not believe there is a formal training process that allows people to eventually get through the system and into a senior executive position.

Mr WILKINSON - Do you believe there should be?

Mr WATLING - I think it would be very good.

Mr WILKINSON - Which State has -

Mr WATLING - I would have to research that, but my understanding is that in some States they do have training programs that public servants embark on to enable them to move forward and make them more appointable, if I can use that word, at the end of it, because they have training systems in place. I do not think we are big on training in this State.

Mr WILKINSON - A number of comments have been made to me and one is that 'We have the right to hire who we like within Tasmania. Because of the smallness of the State we know who is a good operator and whether that person would be able to fill the position. Why shouldn't we be able to appoint that person without going through the advertising, interviewing and the process that normally attaches itself to a number of other appointments?'

Mr WATLING - The State Service principles are pretty clear that the jobs in the public sector have to be open to the public.

Mr WILKINSON - Therefore, if they're open to the public, how does the public know about them? They know about them either by advertising or the trade gazette?

Mr WATLING - Advertising, I would think. I can only go on the information I have gathered from departments to place in my annual report. It does seem that a significant number are advertised. If you asked me to put my hand on my heart and honestly say that about every conceivable person in that SES, I can't say that; I can only go on the information that I have gathered from the agencies and I have reflected them in my annual report.

Mr WILKINSON - So somebody answers the advertisement, along with seven or eight other people, then what happens?

Mr WATLING - I have never been involved in the internal process.

Mr WILKINSON - What should happen?

Mr WATLING - Someone should make a selection.

Mr WILKINSON - And should that selection come just from the expressions of interest for the position or should there be interviews? Should those interviews be before a panel? Should the panel have a set set of questions to be asked or should they be asking different questions for different people? Some might say, 'They got a harder question than me' - that type of thing.

Mr WATLING - One of the things that concern me generally in the Public Service, even at the lower level, is that we have built in systems to such an extent that we have stifled people getting into the State Service. For example, I can't understand why a cleaner - I am not trying to make any disparaging comments about cleaners at all, but I want to use it as an example - has to appear before a panel, write out some great treatise on answering the selection criteria to be placed in a cleaning role. None of the questions or selection criteria may have been relevant to their being a good cleaner.

Mr WILKINSON - Often what happens is there is more of a process in place down the tree than up the tree.

Mr WATLING - That's right. I don't necessarily think that the interview process is the be-all and end-all to getting the best candidate. For example, I sat on an outside body to appoint a person not so very long ago and we gave them a task and told them to go away and give a PowerPoint presentation at our next gathering. When we came back together those people had put forward their view of the world, they told us myriad things: whether they understood the work, the legislation under which they were working and whether they were articulate enough to put it forward. That is a method of selection, too. I would hate one method of selection to be adopted as the only method. I am encouraging the State Service generally to move away from this one-cap-fits-all attitude because I don't think a panel made up of so many people - so many women, so many men, so many disabled - necessarily gets you the best candidate for the job, nor do I believe that someone sitting around a panel asking a series of questions will get you the right answer. Not everyone fronts up really well to an interview. I sat for six years on the Churchill Trust selecting Churchill fellows. I saw some of Tasmania's highest fliers come into that interview arrangement and go to water. Maybe we missed out on some good candidates. I would hate someone to say that it has to be by a panel, by this method only, because I think there are horses for courses.

Mr WILKINSON - That is what we are looking for. We are looking for what you believe is the best process available and so far we have advertising.

Mr WATLING - Yes, we have advertising so people know, but depending on what role it is I think it is important for the people who are going to do the appointment to establish the best approach to get the best candidate. I do not necessarily think an interview panel consisting of x number of people with set questions is always the best. In my experience,

most of the good people go to water when they front up for a big interview. They are terrified and therefore you may not be getting the best answer. What about the people -

Mr WILKINSON - Yes, so how do you pick them? An argument may be that if a person went to water in an interview, under pressure they might go to water. That might be an argument. I am just being the devil's advocate here.

Mr WATLING - Yes, I understand that. I think that, depending on the role and the function of the office, the people doing the appointment should select a method for appointing the person they believe to be the right person. I think there may be a system for choosing the right person as a medical specialist but that system may be totally different to a clerical officer at level 3, a cleaner or someone else. I would like the people to develop a system whereby they can assess merit and that is what they should be after at the end of the day -

Mr WILKINSON - I agree with that.

Mr WATLING - an appropriate system for assessing the merit of the candidate.

Mr WILKINSON - Often what occurs, as you have seen in the past, is people who do not get the job believe that they were unsuccessful for whatever reason. Should the reason that a person gets the job as opposed to others be made known? I ask that because a lot of people might say, 'If I don't get the job I don't want my dirty washing to be hung out for everybody to see. I mightn't get the next job'. Alternatively, should it go before a review panel, for the review panel to look at it or should it even go that far?

Mr WATLING - Under the Senior Executive Service at the moment there is a review process which comes to me and all the stuff does come out. I would say that if you look at the number that are appealed that get overturned it is less than 0.002 per cent.

Mr WILKINSON - So the answer is do not appeal or do not ask for a review.

Mr WATLING - No, but one has to be careful on an appeal that people like myself do not impose their view as if they were members of the panel. The people appealing should be able to clearly show where the people making the decision erred or exercised their judgment in some incorrect way.

Mr WILKINSON - Would they know where the panel said that they were deficient prior to coming to you?

Mr WATLING - Yes, they have post-selection counselling and other processes open to them. They would have the papers and even see the remarks on the paper from other candidates. They would know. I think under that under the Senior Executive Service level yes, there are systems in place already.

Mr EDWARDS - One thing that I think might be useful, there is some data from the Australian Public Service Commission about perceptions of employees who had applied in the last 12 months and had not been in successful in winning a position about merit versus the perception they had if they had applied and had been successful. I think there is clearly a difference between people who, probably for the right reasons, were not successful but they would then have a clouded judgment about merit. People's

perception of merit is a very tricky issue, depending on their own success or otherwise at interviews. I am happy to make this available to the committee because I think it is quite interesting.

CHAIR - Thank you.

Mr MARTIN - It is a bit like Venus and Mars, we might have to call it Jupiter and Saturn.

Mr WATLING - I think we only have to look at our own employee survey that I have been doing every two years. The employee survey in the State clearly showed that employees who missed out on the job were upset and disgruntled but those that got the job think that it is the best thing since sliced bread. When we did an exercise -

Mr WILKINSON - That would be fairly normal I think, Bob.

Mr WATLING - That is right, but when we did the cross matrix in the survey of the people operating on interview panels, their view of merit was extremely high because they had done a lot of work and gone to a lot of trouble to get the right candidate for the job. So my answer to that was, 'Train up more people. Put them on interview panels and then they'll appreciate that it is not all that easy to get the right candidate for the job'. It is hard work. The State Service employee survey shows something similar to the Commonwealth, and it did with the last one I did as well. I don't know how those figures help us, other than to say that the people who participated on a panel knew it was damn hard work to get the right candidate and they believe they operate in such a way as to make a merit selection.

When you look at the appeals that I get in my office, last year about 0.7 of 1 per cent of the jobs advertised were appealed. Of that 0.07, approximately 0.02 got up, and that was on procedural fairness and not merit - there was something wrong with the process. For example, they advertised for someone with seven years' postgraduate experience. Why they would do that I am not too sure, and then they gave it to someone with two years' postgraduate experience. Or the chair of a selection panel gave his best mate a glowing reference and, as it turned out, he was the godfather of the applicant's child; he was a drinking buddy, a motorbike buddy, and the family wined and dined together on regular occasions. There was a perception of bias and my office intervened.

Mr WILKINSON - Sometimes that is the case, there is this perception of bias, and often, more than likely, it is not the case. How do you solve that?

Mr WATLING - Under the State Service Act the State Service Commissioner can only go as far as requiring the agency to readvertise the vacancy.

Mr WILKINSON - Let's say Paul Harriss is chairman of the body that is employing somebody and his best mate comes before that body wanting a job. That person gets the job, somebody might cry foul and say, 'Paul was the best mate', but this person still might be the best person to get the job. How do you solve that?

Mr WATLING - I don't think you're ever going to solve it. People's perceptions are people's perceptions. All you can do is have an appropriate process in place to say that someone

had been through the process and that is how it turned out. You are never going to have a foolproof system, in my view.

Mr WILKINSON - Should the person in Paul's position, when his friend come along, not be part of the process? Should he pull out and say, 'I've got a bit of a conflict here. I'll pull out and let you people interview that person.'? That person should still have the right for that job.

Mr WATLING - So now we're moving onto the panel. I was commenting about the person going for the job. In terms of the panel, I think people should understand that they could be in a position of conflict of interest, in which case they should do something about it.

Mr OGLE - One needs to remember that normally the panel makes a recommendation to another delegate, so there may be circumstances where you just declare your conflict and let the decision-maker know the relationship. It is a bit difficult if that person is the manager of that area who wants to have a say in the people who are going to work for him or her.

Mr WATLING - The panel doesn't do the appointment. In most cases in the State Service they make a recommendation to someone higher and all the paperwork that goes with it explains why they selected the person. I think at a lower level, lower than the SES, I would give people 10 out of 10 for the work they do on these panels. I have another problem: the process is taking too long and we are missing out on good candidates in the public sector because they can't hang around for that long. I am trying to get the system sped up a bit but because of all these things along the way that it is taking 70-80 days to make an appointment.

Mr WILKINSON - Which is ridiculous. Some might argue then why should not the person who advertises be able to appoint who he wants just by saying, 'I know Rhys Edwards is going to be a good operator. I know his background, I have grown up with him and I know what he is like. He is a good operator. I get on well with him. He should get the job'. What is wrong with that?

Mr WATLING - Well, if I look at the State Service Act, the principle of the State Service Act says that things are to be open to all, so there should be some mechanism that would allow people to understand that there some vacancy is out there.

Mr MARTIN - When you say that every position should be advertised can you foresee any circumstance where it could be justified that the position should not be advertised?

Mr WATLING - Yes, I think that there could be. For example, if we wanted, say, a medical specialist and a medical specialist came along and said, 'This is my area of speciality' then I would think an agency would say, 'Don't let that person out of my sight because they are not easy to get'. There is an example where it could happen.

Mr OGLE - Could I give a simpler example. If a person is an SES level 2 and a different SES level 2 becomes vacant then I believe that, given the mobility of the service and the generic criteria, it is quite within the rights of a head of agency to develop that person and move them sideways at that level.

Mr MARTIN - The argument against that would be that there might be someone better out there somewhere.

Mr OGLE - But still a SES level 2 becomes vacant somewhere.

Mr EDWARDS - It is a balance between flexibility. If you think about the creation of SES, we have a group of senior managers that we call the executive service and have that notion that this is a cohort and available for government to put towards the management of its departments. So within that and within the way the act is framed and the policies and practices, it does allow some flexibility and I think that flexibility is needed for operational reasons. I agree with all the comments made today about merit and process but if you are running a large business and you have a limited cohort of good senior people then you do need flexibility. If the vacancy that arises is a time-critical one and you need to get someone in there, then I think heads of agencies should have that flexibility to manage their senior staff in that way. Not a lot of that happens but I think you do need to allow for some of that flexibility.

Mr WATLING - My comments have been related to brand new and fresh appointments. With the Senior Executive Service, if you go back to the establishment of it, back to the earlier inquiries that the State had into the Senior Executive Service, it was to be a mobile force that could move around where and when they were needed. So if there was a problem in this agency and they needed to sort it out then we could move people in the Senior Executive Service into that area. It was definitely meant to be mobile. That was the whole essence of establishing the Senior Executive Service. It would be appropriate to say, 'I need a SES person at level 2 over here' and then take one from this area. It must be also remembered that we are dealing with the same employer, so why can't the employer take someone from the Senior Executive Service in Health and move them into the SES in say, Economic Development?

Mr WILKINSON - I agree, so why can't they?

Mr WATLING - They can.

Mr EDWARDS - When you are developing these processes they must not be so rigid that you take away the flexibility you need when you are running these organisations to make those decisions. I think you mentioned private sector organisations. There is a high degree of flexibility in those as long as they are complying with the relevant employment law of the day. That enables them to be reasonably nimble and there is a strong incentive on them to get the right person for the job. There is an equally strong incentive as a public sector manager to get the right people for the job. We want our best performing organisation, so we genuinely have an enormous incentive to get the best people available.

Mr WILKINSON - I agree with that, Rhys, but it seems to me that you're fettered in doing that by a lot of the processes in place. As Bob has just mentioned, it could take you 70 to 80 days to get a person you want because you know he is going to be a good contributor.

Mr OGLE - Can I suggest that some of that is built around myth, that process equals merit. If you're talking about the process, yes, there should be some form of advertisement and

that depends on the sort of job. There should be a selection assessment but that doesn't necessarily mean interview. There are executive search companies, assessment centres, myriad assessment processes. The other thing you have to remember is that we have to attract some of these senior executives and some of them are reluctant to put up their hand. You have to use executive search companies, for instance, to get in their head. They don't look at the State Service *Gazette*, so we have to attract them or notify them in some other way. If you're going to talk about interviews, that puts a myth around that an interview will get you the best person. Maybe there should be an assessment process relevant to the particular job.

Mr WILKINSON - Do you believe that to get the best person for the job you are hampered at the moment by present convention or legislation in place?

Mr WATLING - At the Senior Executive Service level, I am not the best person to ask because I don't physically get involved in that. If you ask me about the State Service under the Senior Executive Service, I would say that the myths that Frank talked about are stifling it. One department head said to me, 'It takes so long', and I suggested that he get his HR area to write down on one side of the paper what the law requires and then look at the internal practices that have been built up over a period of years. It gets added to and added to and I think it has become a bit of a monster.

Mr WILKINSON - So you're saying there should be something done about that, Bob? It seems to me that it should be done if you're saying that it is a monster.

Mr OGLE - We currently have a project under our People Directions framework where we have identified a number of themes that are important for the future direction of the State Service. These are mainly about people processes: leadership, the capability of the service, work force planning and the attraction and retention. Within that we have a number of projects. The Department of Health is presently working on a project called 'Right Person, Right Job'. What they're developing is a process to get that down to something under 40 days. You might say that 40 days is too long, but I think that is a reasonable benchmark compared to where they have come from, which in some cases was 100 days. What that develops is a process whereby they streamline the whole process and stop building in myths that don't really help in getting the right person. We have a project that is well under way and has had considerable success already in Health. Where Rhys came from in Economic Development they put a lot of work into getting rid of some of those built-in processes to get their time down to 34 days, I think. There is a lot of work and it does need to be addressed.

Mr EDWARDS - I think Bob's comments are right - that over time custom and practice build up a lot of ways of doing things that aren't necessarily the legislative requirements and may or may not add to finding the best person for the job. Part of this project and part of your advice to agencies has been to strip away some of those things and get to the core of what you are really required to do under the act and that makes sense to do in terms of finding the best person for the job, and then see what sort of process you're left with.

The other comment I would like to take up is one you and the commissioner mentioned earlier about training and investment. It strikes me that in a lot of other workplaces you can invest in a person and say, 'If you meet these certain capabilities and requirements and undertake certain training then you are going to be promoted'. Law firms are a good

example. When you make someone an associate it is usually on their track record of experience and their revenue to the firm.

Mr WILKINSON - And capability.

Mr EDWARDS - Yes, keep going and you will eventually be an associate. You don't have to wait for a job as an associate to be created or for another associate in the law firm to leave or die and then have a process for appointment. I think we do miss some of that in the way we have constructed the Senior Executive Service appointments. The only way you can move to this new level is by a job being vacated or a new job being created. I think we miss a dimension there about training and investment in our people. You might find people who are very good or willing to invest in their own training and undertake new projects and assignments that develop them, and then it is fairly random as to whether an opportunity comes up. I suspect over time that is one of the dilemmas we have in recruitment and attraction and retention, but particularly the retention part of things, because people say, 'Where's the next opportunity for me? It doesn't matter how much I improve myself or how much my knowledge is improving my skill set, I still have to wait for a fairly random event to occur before I can move up the ladder'. I think that is bit of an impediment on a flexible, creative and innovative management cohort for the State Service. I think we need to deliberate on that in this committee because it would be useful.

Mr WILKINSON - Sure, because that is where people in the private sector can say that they know this person is a good operator, they know what they have done, and so they cherry pick that person from the public sector and place them in the private sector. And that is where you miss out.

Mr EDWARDS - The other thing that has changed remarkably in the last decade is the competitive environment in which we are trying to attract the right skills, and that is not just at the senior executive level but at all levels and all sorts of specialist skills. We need to keep our processes reformed and under review and attractive to the market. Otherwise people will say, 'It's too hard to get a job in the State Service' or we lose the good people that we have.

CHAIR - Bob, earlier you mentioned that often people coming from outside the system do not understand the processes of the public service. What impediments, if any, do you think that places on the provision of frank and fearless advice to members of Parliament or specifically the executive government?

Mr WATLING - My comment related to people coming from outside the public service not understanding that there are ways that they have to go about doing their work. I am not commenting in relation to frank and fearless advice. Once they got in I would hope that they would give frank and fearless advice. I am making the point that it is not always easy for someone come in and be on the ground ready to fire up and go. There is a need to have some understanding of how the public service relates right up the line, including through to the executive and to Parliament. If I came in as a senior executive from a local establishment, I would not be on the ground running the first day, I do not think. It would take some time.

Mr OGLE - Can I just mention that we do run, through the training consortium, a very successful introduction to the State Service. It is not just targeted at lower level people, it is targeted at anyone who comes into the State Service. It outlines policy development, it has some very important key speakers, it talks about ministerial briefs, the set-up of who reports to whom, the relationship with the Parliament, code of conduct - you name it. This is a very successful program. As I said, you could have a senior executive person on that program. It has had those sorts of people. We do some of the work. I am not saying it is perfect, but I think we probably need to do more.

CHAIR - Jim has been talking with you about the conflict of interest issue. What processes are in place to ensure that that is well understood by people who in a position to interview people for positions in the public sector?

Mr WATLING - In terms of levels lower than the Senior Executive Service?

CHAIR - That is the area where you can specifically comment.

Mr WATLING - Yes, I think they have a very good understanding through their training courses. Panels are trained. This is raised during the course of their training. Some of them, and very few I think, understand the difference between the perception and the reality. I remember having a debate with one chap who said, 'No, I didn't act in a biased way' and I said, 'But through the eyes of a reasonable person they might see it that way'. They do get some training but they are not experts. It is an integral part of training those people on interview panels.

CHAIR - Earlier, Bob, in response to one of the questions, you said that you're not the best person to ask about SES appointments.

Mr WATLING - No. Can I just explain that? In terms of SES appointments, when I split the office that role was one of the delegated arrangements. If you look at the delegated arrangements - and I think I have a copy here - you will see that the statutory office employment function from that is also mentioned at the start of my annual report.

CHAIR - Who then is the best person to ask?

Mr WATLING - I think it would be the Public Sector Management Office and the secretary of the agency.

CHAIR - Over to Rhys and Frank to give us the advice as to what is the best process.

Mr EDWARDS - The best process for what?

CHAIR - The areas that Bob didn't cover in terms of the process that ought to be invoked. We had already gone past the conflict-of-interest issue, but it was in response to an earlier question from Jim and Terry.

Mr EDWARDS - I think I touched very briefly on the conflict of interest. The people who are interviewing for positions in the Senior Executive Service are themselves senior government appointments. You generally have at least one person who is a more senior level than the position description and often the manager of the area in which you're

undertaking the employment, so they are well versed in issues around real conflict of interest and the perception of conflict of interest. However, I think in a small State it is always the case that you're likely to know someone or know someone who knows someone. The personal relationships that we see in a place such as Tasmania are extraordinary. That is one of the good things about the community here, I think, and it is one of those things we have to manage. It is very easy to say, 'This person knows him and was seen having a drink with him', but I think it is the reality of living in a town that is of a relatively small size in the State. I don't think there is any way you can extinguish perceptions of conflict of interest. You have to make sure that they are well understood, documented and that people know to raise them. Ultimately the appointing authority is not the panel so that the panel, when making its recommendation, can say, 'There are conflicts of interest or perceptions of conflicts of interest that you, the appointer, should know about'. In senior executive appointments, it is up to heads of agency when they're endorsing recommendations to make sure that they have looked at the documentation and are aware of any issues raised and raise any if they feel they haven't been dealt with properly. My sense is that the conflict-of-interest issue is pretty well looked after in our processes.

More generally, I think the processes, as the commissioner put forward in some of his statistics, are good. The principles in the State Service Act around appointment on merit are sensible. I think there is a debate about what merit means, what processes are needed to surround to ensure that merit has been undertaken. I think it is not necessary to jump to the conclusion that merit has only one form. An advertisement, a panel with three people, a set of selection criteria with a written application against the selection criteria - I think they are some of the dilemmas over custom and practice in the public sector. We have become used to this as being the only way of doing things. I think particularly the issue around selection criteria aids people who are used to writing public sector applications. I have seen over recent years people who don't understand the idea of selection criteria and they write a general letter addressing why they have the right qualifications for the job. They will then get a polite letter back saying, 'Your application cannot be accepted because you haven't addressed the selection criteria'.

Mr WILKINSON - It's a bit like grants, isn't it? People who have to make application for grants know that, but other bodies which might obtain grants don't know how to do it, therefore they don't get a look-in.

Mr EDWARDS - I think it also implies a science to the employment decision that is not really there, that only if you have a matrix of the six selection criteria and the rankings against everyone, and you weight the rankings that the number will drop out and you've made the right decision. I think employment decision is actually more complex than that. We have all probably been in situations where we've employed someone who seemed really fantastic at interview and on paper, and they've turned out to be not fantastic at all.

Mr MARTIN - Oh yes?.

Mr EDWARDS - We sometimes assume that if we had more process and some better articulation of what we want we would get better candidates. My view is a bit more sanguine than that. By and large, there is an element of randomness in that time that you spend with candidates and it is really about getting a sense of them.

I think what is useful about how our documentation is done is that there is a very good decision process after the fact, so if anyone wants to question why a decision was made, then more so than pretty much anywhere in the world, that the public sector has chapter and verse why a decision was made, with the candidates' attributes, their rankings and so on. That clogs up the system in terms of the time it takes but ultimately, if people want to then question why the decision was made, it provides a very useful evidence base.

Mr WILKINSON - It shouldn't clog the system up though, because you know whom you're going to select and you can write down why you're not selecting the others. To me, this wouldn't clog up the time because you've made the appointment, and then you write the reasons the others didn't get it.

Mr EDWARDS - True, but if you have 10 criteria, which is not uncommon for a job, and you've interviewed six applicants, that would be 60 criteria and you would need a paragraph or two on each. In terms of just the time to articulate those and get it all down, it is quite a body of work. Again, whether that ultimately improves the decision-making or not, I don't know.

Mr MARTIN - Is that done in every case now? Is that the accepted procedure?

Mr EDWARDS - I would say, by and large, yes for the majority - 80 or 90 per cent. Selection reports across not just the SES but the general public service, have a very common look and feel now because as custom and practices have built up, there is a way of doing things.

Mr MARTIN - In the 10 per cent or whatever that it is not taking place, why would that be?

Mr EDWARDS - People might have, as the commissioner indicated, decided to take a different approach to interview. A decision may be made to get people to come in and present and then there might be comments about the presentation and how that addressed the criteria that you were looking for. There are some variations in processes and I think you're seeing, at the very senior levels, executive search firms that will do the short-listing. Rather than wading through 15 candidates, you might be presented with four or five making up a short list for interview and those sorts of things.

Mr WILKINSON - Can they then give you the person they believe is the most appropriate, or do they just give you the four or five and say it's up to you.

Mr EDWARDS - You can ask them for any sort of service you like. You could say you would like some views as to who is best suited, but I think the easiest way is for them to present you with a short list because they only know what you want in the job from what they've heard from you so they recognise that you are probably much better placed to decide exactly what is needed, which is why I think you don't see them taking the recruitment process right up to the point of interviewing and giving you a successful applicant. They add value at certain parts of the process.

Mr MARTIN - Rhys, in the cases where a different procedure is adopted, there would still be a need to document very carefully why you've gone through the different process and

also why the person that has been appointed is seen fit to be a good person. Does that happen in every case?

Mr EDWARDS - Yes, but the documentation might be different from the one you normally see where you might have a big matrix of names down one side, criteria across the top and so on.

Mr MARTIN - But there would be documentation in every case?

Mr EDWARDS - Yes, because the job of a panel is to put forward the preferred applicant's name to, in this case, head of agency for approval and to do that you need to have the articulation of that and the justification of it. That is why I am saying, in terms of documentation we probably have it in spades, in terms of why an applicant is the best, because the processes have grown up. They are quite intensive and quite wordy. I have probably seen good processes used outside of the government sector that have worked just as well and don't have any of it.

Mr WILKINSON - Rhys, are we really saying there is no proper way to do it - it might sound a silly question - but there is a proper way to do it and that depends upon the position that is to be filled?

Mr EDWARDS - If you start with some of the stuff you heard earlier from Bob, you have a set of principles in the State Service Act that talk about what employment should be based on. One of those is about knowing that the opportunities are there, so I think there is an obligation to make opportunities known by advertising or promulgating them somewhere or getting people to hunt out potential candidates. Then there is the question of merit. To show that you have used merit in the process, what do you need to document to show that you have used that so that the decision was not made without merit? My sense is that we do not have a problem in that. The processes are quite involved and so if anything we are a workplace where those questions are documented and detailed inside out.

As a modern employer we need to be reasonably flexible. We need to make our processes relatively applicant-friendly otherwise we will turn away people who are just not interested in that. We also need some flexibility so when I have a cohort of senior managers I need to be able to use them relatively flexibly. I would not want to see anything that stopped the ability to do that because you always have to be able to meet emerging demands and emerging needs.

Mr WATLING - That principle is really important because in the old State Service Act 1984 people were appointed to a position which denoted ownership. If you tried to get people to do some work outside their position then they would say, 'It's not in my position description'. But when the act changed in 2000 it had the head of agency assigning duties at level, so notionally in the State Service across the board the head of agency could get a State servant to undertake their duties in this area, that area or the other area. It is the same with the Senior Executive Service. If you do anything to stifle that movement around the State Service then you would be doing the State Service a disservice because we have gone from an old system of positions to now the head of agency assigning duties at level. If you are doing those duties at level then you can be required to do the duties at level in this building or that building. We have not, in my view, perfected that enough at

this stage and we need to. The Senior Executive Service and the State Service generally I think are classic examples where it can happen but we do not do it really well. We should not be doing anything to stop that movement within the State Service.

Mr WILKINSON - How do we get the person? Let us use the legal area, if we can. Because a person has been a brilliant advocate, a brilliant lawyer, for 20 years then we know that person is going to be the best judge that can occur. That person might be humble, he might be working on his next matter therefore he does not put his hand up and he does not make application for the job. You want those people in the position, though, like in the State Service you want those people in the position, so you go and say, 'Please apply. Are you able to do this job? We want you there'. How in the State Service do you do that? There must be a number of people out there that you believe could be cherry-picked to do the job as best as any that you could think of. How do you get them?

Mr EDWARDS - I think it is very difficult. People do, when a position becomes available, shake the trees a bit and say, 'We have this position coming up and we're going to be advertising it on this date or whatever; have a look out in the *Gazette*'. However, I think for a lot of people that does not work. They are saying, 'If you really want me, choose me. I'm not going to put myself through this process'. I think that is difficult. I would like to run an organisation where you had flexibility but the trade-off is that it puts the trust on me that I would not abuse that power by just hiring whoever I wanted to. So I think that is the heart of the dilemma that you are thinking about. You want a set of processes that help reinforce merit but if you do so you may actually avoid being able to do exactly what you are saying. I think there's a strong incentive on heads of agencies to employ on the basis of merit. You can't afford to have non-performers in your organisation at that senior level. As the statistics show, there are only 240-odd of them in the SES across a work force of 20 000-odd so you want very good performing people.

Mr MARTIN - Is there a definition of 'merit' anywhere?

Mr EDWARDS - The act tends to interpret it slightly further but it is not a definition in a sense of what merit is. It talks about the way you might, in a process, understand that a decision has been based on merit. 'Appointment or promotion is based on merit if an assessment is made of the relative suitability of candidates for the duties.' So it implies that there will be more than one candidate, which would rule out the example Mr Wilkinson just gave. It talks about having an assessment that is based on the relationship between the candidate's work-related qualities and what you need for the job. I think that is the heart of the decision. The third element is the assessment of the relative capacity of the candidate - the idea that you might rank them and pick the preferred one. I think that is a useful elaboration of merit under the act but it doesn't help with what it means in each instance.

Mr WILKINSON - To get these people you're looking for - and that is what I'm endeavouring to find out, the best way to get those people because every company wants the best people to do the work - what should we do, noting there is a difference between the private and public sectors?

Mr EDWARDS - You want to be able to articulate your decision and justify it so you can say, 'The reason we went out and got this person is because of this person's attributes and

suitability for the position'. It might be that the argument is about needing to move quickly. We could have perhaps got the same result by going to the market and our processes would have taken 70 or 80 days, but we needed to move quickly. We used a couple of examples. I have time-critical projects and if you lost a project director, for example, on a major project then you would need to slot someone in straightaway and that person may be from outside the State Service. You may not have someone in waiting ready to be put in. I think we need that operational flexibility.

Mr WILKINSON - If you have that operational flexibility, if you have to employ somebody and you want to do it quickly, do you employ that person without advertising and going through the process? If you do, do you write down and document why you employed that person as opposed to going through the process that we have been talking about?

Mr EDWARDS - I think that is one answer, yes. Ultimately, as a CEO, you need to be able to justify your decision. Because this is the public sector and there is greater need for transparency than in the private sector, you need to articulate your decision and why you do it. I think that is the important part, being able to explain, 'This is why this was necessary. This is why the attributes of that person are a right fit for that job'.

Mr WILKINSON - What is concerning me is that we're getting to a situation now where people find it difficult to make a choice because they believe that some blame may be placed on them. Because of that, they don't want to make a decision. They think it is easier not to make a decision and then no blame can be placed on them. I think we are getting to that situation now in some ways. People are scared to make a decision because of the criticism that may follow. If you're in a leadership position, you are there to be a leader and make your decision and then say why it was made. If they accept it, fine; if they don't, you have to live with it.

Mr EDWARDS - There's an interesting phrase I saw in a speech the other day - 'the dead weight of excessive scrutiny'. I think that is sometimes the case. In the public arena in particular the scrutiny is so great that it is sometimes easier to throw everything to a process because, hand then on your heart you don't need to care whether the process delivers the right outcomes. You just say, 'That's okay. We've done the process'. If you flipped that around and said, 'The responsibility is on heads of agencies as to the outcomes and performance of their organisation', then that is the right focus. Processes are important but they're not the main game, otherwise they become a cover for not making the right decision.

CHAIR - Have you assessed procedures in any other State? When I was in Western Australia for other purposes some months ago I took some time to catch up with the senior executive service commissioner, or whatever her correct title is. She gave me some detailed documentation of what process is required in WA, fed out specifically from the WA Inc. criticisms of course. Of necessity that State put in place a robust process for the appointment of senior executives and there is no compromise to that process. Sitting under the commissioner there is a specialist who oversees those appointments, so there is an experienced person who is regularly involved in the process. Have you assessed the operations of other States to come up with a better system for this State?

Mr WATLING - In relation to Western Australia, the commissioner over there is the Public Sector Standards Commissioner. It is unlike the State Service Commissioner here. That commissioner would be looking at the public service, and that is why I drew the line at the start between the public service and the State Service. The State Service is only one small aspect of the public service, so the Public Sector Standards Commissioner has a different role to the newly-appointed Public Service Commissioner who looks after the employment side. This Public Sector Standards Commissioner would work with the Ombudsman, the Auditor-General and a couple of others to oversee appointments of CEOs. As I understand it, they would draw up a list of people that could be suitable for appointment and then the head of agency would choose from the list.

CHAIR - If one of those recommendations is not eventually appointed, then I understand the reasons for going outside the standards commissioner's recommendations have to be gazetted.

Mr WATLING - Yes, that is right.

Mr EDWARDS - I am aware of the process in WA, but only in relation to appointment of chief executive officers or what we call heads of agencies. Does it apply to the rest of their senior public servant appointments or just that?

CHAIR - I am not sure.

Mr WATLING - I stand to be corrected but I am pretty sure that section 45 of that act applies only to CEOs. If you are talking about the public service, they would then be dealing with appointments like, in our case, Aurora, Transend, TOTE and all those other things -

CHAIR - Yes, but I got the impression that it included even heads of agencies as well.

Mr WATLING - Yes.

CHAIR - Not just the more remote, as it were.

Mr WATLING - No, my understanding is the CEO would be the head of agency in whatever form you like to call it.

Mr OGLE - If you become too prescriptive - down at the SES it is the head of agency that is accountable and responsible for the business that they run, so it is reasonable to expect that they should take the employment decisions that relate to that agency. So I would be reluctant to have a central body selecting and appointing. I think it is up to the central body to outline the framework under which that occurs, but you have to give the responsibility and accountability and all those things that go with it to the head of agency. And on that score, we have some standards and procedures around senior executive appointments that date back to 2002. There has always been confusion around those standards, because they just came out as a standard and not a ministerial direction or commissioner's direction.

Mr MARTIN - Does that need to be clarified?

Mr OGLE - Absolutely. Rhys has tasked me with the role of looking at the Senior Executive Service and I have just listed the sorts of things that we need to look at. Mobility in transfer - that is what the senior executive was set up for. The distinction between specialist jobs and corporate jobs - you could expect that a senior executive person in Health needs certain skills but it is not the corporate services director type role, so mobility is not as clear. That was another issue that was recently highlighted by the Auditor-General in terms of severance arrangements that should apply.

That is part of this equation. You need a contract that is reasonable and sets out what the terms and conditions are. The commissioner has already mentioned succession planning. We have already looked at the structure with the latest State Service negotiations and now we have an overlapping arrangement whereby bands 9 and 10 are more the specialist role. They overlap into the SES in terms of salary levels but you do not have to be appointed on a contract to SES positions. I think that is a major step forward in a structural sense.

Obviously we have to look at the appointment processes and clarify those because it is 2002 since they were done. Rhys has already mentioned the development and leadership capability that we need to look at. We have a median age in the State Service of 51 and it is going up every -

Mr WILKINSON - You know that's young, Frank.

Mr OGLE - It certainly is.

Mr WATLING - I would definitely say it is young.

Laughter.

Mr OGLE - But the demographic under that it is probably 51, and if I really look at it the demographic under that is 51. So what is going to happen in four or five years' time in terms of having people who can fill these roles? There is a lot of work we need to do there and we are doing a lot of work -

Mr MARTIN - I will be 55 and it is still a very good age.

Mr OGLE - Well, it is for people under the RBF scheme.

Mr EDWARDS - The global financial crisis may keep people in work forever now.

Mr OGLE - Only those on accumulated benefit. Gender is an issue that we need to look at. We have about 27 per cent female in the Senior Executive Service and yet we have 67 per cent female in the State Service general.

Mr WILKINSON - If I might just touch upon gender, should it be the best person who gets the job or should it be the best person, male or female? In other words, if 10 people apply for the job, and the best female or the male, whichever way it might be, is not as good as the best applicant of the other sex, should you stop that other person from getting the job? My view is no, whoever it might be.

Mr EDWARDS - It is an interesting question. I think it is where merit and the equity issue come into conflict. There is no right answer to that. Personally, I do not think we should have targeted demographics in our Senior Executive Service, but when you look at a figure like 30 per cent of women in the Senior Executive Service, the question that probably arises is whether there something about the nature of those jobs that is not attractive to women. We have lots of women in the State Service but not as many of them go through into those senior positions. One of those might be the hours and expectations that we put on those senior people and their availability. I see this with law firms a lot, Jim. The work is not always conducive to part time or other arrangements. Child-raising interferes with the career progression. We need to look at how you make those senior roles flexible enough that they are attractive, particularly for women who have family responsibilities. There are ways of doing that that are not about targeting a certain percentage in the State Service but about the job design. I think the next evolution of these things is about looking at that. It came up for all jobs, but certainly in discussions with the PSUWA about those sorts of issues.

Mr OGLE - One thing we do not do very well is identifying talent. It is a new area but we need to start looking at identifying talent and developing those people, whether that is through some sort of quick stream or whatever. We need a process to identify talent because of the demographics. As I explained before, there are going to be younger people thrust into these roles and we have to give them the skills to do that. We have developed mentoring programs and all sorts of things to bring those people up to a level. I agree with Rhys - which might surprise you - that at the end of the day it is the best person to do the job. You have to have that. But I think you have to identify people, females, who we might want to develop and then they can be competitive for jobs that come along. We need to give them opportunities to act in those jobs, or expose them to jobs for six-month periods and not be so structured that you cannot put some person into a job for six months to expose them to the opportunities and test whether they are up to that level, so I think you have to be flexible.

Mr MARTIN - Playing the devil's advocate on this one, do you believe there is any resistance amongst people making the appointment decisions to employ women? Is there a glass ceiling there?

Mr EDWARDS - I've not seen it. There is something in the statistics showing that they are not proportionally coming through, but I don't see a glass ceiling in evidence. I think we have some very capable women in the Senior Executive Service, we just don't have more of them who want to do it. I think there is a point where you have to say, 'Is there something about the nature of this work that is not that attractive?', and I think it is a mistake to look at targeting because that devalues the currency of getting the job. That is not a good signal. In some ways, it is necessarily supported by the women who are already in the Senior Executive Service or aspire to be there.

Mr MARTIN - I agree. Again, being the devil's advocate, what if someone put forward the suggestion that it is because there are men above them making the decisions on that employment opportunity?

Mr EDWARDS - As I said, I haven't seen evidence of that in my time in the Senior Executive Service.

Mr WATLING - Nor have I. I think the public sector is more open about this than the private sector. I haven't experienced it in the last five years, and I haven't had it brought to my attention.

Mr WILKINSON - Frank, I cut you short, you were talking about gender.

Mr OGLE - Yes, now turning to flexibility in terms of the skills to be utilised. I think we get some mindsets about what sort of skill set suits the Senior Executive Service. There is a core set of skills but there is also a specialised set of skills for particular jobs. We have to look at the actual contract. One of the issues we raised before is in each instrument of appointment, we have a clause about reassignment of duty. There is a contractual out to reassign duties within the SES, the commissioner is right. It is probably not used to the full extent and it is only used for the good people.

Renewal transfer is another issue that we need to look at, as I mentioned before. There is also the issue of what happens when you have an SES person doing a good job. You don't want to go through a whole process again, you want to renew that person to keep them because other people are looking at them.

We need some flexibility about exceptional circumstances. I think Rhys talked about those project-type jobs that come up from time to time where the project manager leaves and you have to get someone in immediately, you can't wait.

I think we need to clearly separate issues around specialist jobs, Senior Executive Service jobs, prescribed officers versus the State Service and ministerial officers, which is another category again. We need to bring those under one set of contemporary instructions that are clear to people, the flexible arrangements. In that sense, recommendations coming from different groups including your own should obviously be considered.

Mr WILKINSON - What type of recommendations would you like this group to make?

Mr EDWARDS - I hadn't thought about that. I think part of our earlier discussion about this was that there are different elements to public sector employment and that your terms of reference cast the net fairly wide. You've looked into all sorts of aspects of that - appointment of statutory officers, appointment of public servants, appointment of senior public servants in the SES and heads of agencies. They are all slightly different forms of employment and there are different issues associated with each. A blanket approach doesn't necessarily work.

Certainly the things that are my responsibility, and I have the delegated power in providing the policy and practice for appointments at the Senior Executive Service, I need a framework both in that role and in my own role running the Department of Premier and Cabinet. There I have the ability to have a contemporary set of employment practices that fit the right people to the right jobs, that are friendly to the potential applicants that I might have for employment and that would allow me some flexibility to deal with emerging issues.

In line with the pace of change over the last 10 years, some of the practices we have and the policies need renewal and refreshment because the demands on us, as heads of

agencies, are now ever-increasing. We have a limited pool of talented senior executives to do the tasks and we need to be able to use them in the best way possible.

In terms of the SES, I don't see any great issues with the way the appointments have been made to date. Because the purview of this review is very wide, there have been some intimations made that somehow the appointment of what I call SES public servants is under question, which I would say, given the evidence, is not the case. The evidence of the use of advertising and the processes we have doesn't lead me to have any great issue with the way it's done. What I think we can do is modernise it and put it in a more contemporary management framework, and that is some of the stuff that I have charged the PSMO to look at and come back to me about.

Mr MARTIN - Frank, I think when you started going through that list you said they were applicable to positions under the heads of agency. What about the appointment of heads of agency?

Mr EDWARDS - Again, I think there is a case for looking at that as a separate group. Obviously there are other ways of doing it and the Western Australian model is one. In terms of heads of agency, I think the important aspect is that there is a huge incentive for the government of the day and ministers to get the very best chief executives. The performance of a minister is also reflected in the performance of their agency and their head of agency, so there is a very strong incentive to get the right person. I think that needs to be taken into account. I think the relationship between a minister and a head of agency is also very important. You wouldn't want to design a process that divorced it completely from the Premier or the ministers of the day. I think that would be a mistake. It is a bit like a CEO and a private sector board. The board needs to have confidence that their CEO is the best person to do the job and if that confidence in that relationship doesn't exist it would make work very difficult. If you're thinking about processes, I think there needs to be some mechanism to take that into account.

Mr MARTIN - Being devil's advocate, it's been suggested that by taking into account that relationship between the minister of the day and the secretary, that would politicise the Public Service.

Mr EDWARDS - I don't think it would. You would have to go back quite a number of years to the very purist Westminster tradition of permanent Public Service heads, the Sir Humphreys of this world. I wouldn't imagine that that world was better. These may have been very capable men and women but they were largely men - that golden age of Public Service mandarins - but at least in Australia's context they were largely white, elderly men with a very singular outlook on life. Whether the Public Service is best run by people such as that, I don't know. I think what you're seeing over time in the UK and Australia is the notion that those roles are not permanent Public Service heads; they are contract appointees. In the United States, a number of thousands of positions change with an incoming government. I think at its heart we need to make sure that whatever processes are involved that we take into account the requirements, needs and wishes of ministers and premiers of the day. I hope I am a very long-serving head of DPAC but there may be at some stage a government with a premier who decides that I am not the person they want to head it up. It would be a shame if they were saddled with me forever because the process didn't allow them to change it.

Mr MARTIN - It has been argued in proposals that have been put to us by some that in the case you're giving it means the senior public servant is not able to give frank and fearless advice, as they did pre-1972. How do you counter that?

Mr EDWARDS - I would say that that is just not the case. There is a very strong culture of people who rise to the top of the Public Service in this jurisdiction, in other States, and at the Commonwealth level. You get there by providing frank and fearless advice and that comes to the heart of it being in the best interest of all to have a very competent senior public servant heading these departments. I think that is embodied in the culture of the people who are interested in those sorts of senior public service roles. If you didn't want to do that, you're in the wrong sort of job.

Mr MARTIN - Isn't there a danger that the minister appoints a yes-man?

Mr EDWARDS - I don't think there is much incentive in having a yes-man or woman. I don't see evidence of it in the Australia context and when I talk to my colleagues. My colleagues who are the heads of DPACs in other States are all long-standing public servants or have great experience in both the public or private sectors. They take that notion of the independence of their advice very seriously. What you need then is to be confident that you have a culture in the public service that supports that sort of behaviour.

Mr MARTIN - One of the downsides is that you can get, by going down that course, the opposition parties, media and the public perceiving that the political party in power's mates are being appointed to positions. Have you anything to say on that?

Mr EDWARDS - I think the defence to that is to look at the capabilities of the people that they appoint. If you can justify and logically argue why that person has claims to that job based on merit then I think that is the debate. This committee has tasked itself with thinking about these sorts of processes. In terms of heads of agency you need to think about the relationship between the Premier and ministers and the heads of agencies as an important part of that decision-making process. I am not saying it is the only part but it is a very important part. A process that ignored that part altogether would no necessarily work very well for anyone.

CHAIR - You have indicated to us some deficiencies with processes in the past and probably some improvements needed. You have talked about operational flexibility and the like. Rhys, was that operational flexibility in play when the intent to appoint Richard McCreadie was floated? Was that the operational flexibility you are talking about?

Mr EDWARDS - No, because the appointment of McCreadie is under the Police Act. It is not an issue for the Senior Executive Service so it is not something that is in my purview.

Mr WATLING - They are part of the public service but they are not part of the State Service.

CHAIR - But I use that as an example: is that the sort of operational flexibility which you have suggested to the committee is needed going forward? That is just an example. You mentioned project managers; if a project manager resigns you will need to put somebody in their place pretty quickly. You do not want to be mucked around with a whole heap of process which stymies the project.

Mr EDWARDS - That is not the context in which I have used it today because you are asking me about the SES and I am talking about people who are my managers. The Commissioner of Police is not my manager as such. They are an officer appointed under another act.

CHAIR - Let us go then to, for instance, the appointment of a magistrate. Would you see your role with this delegated jurisdiction, and specifically your role as head of DPAC, to intervene in the appointment of a magistrate?

Mr EDWARDS - What you need to look at is the formal process for appointment of these positions, appointments that are under an act where the appointment is made by the Governor on advice of the Premier or the minister. That is the process. The issue is what advice does the Government take into account along the way in order to come to the conclusion about candidates. Governments are open to taking advice from all quarters, including the heads of their agencies.

Mr WATLING - I think the example you give has nothing to do with the delegation that has been given to a head of agency.

CHAIR - No, but people would be aware that Linda Hornsey has said that she intervened in the appointment of a magistrate. You are now the DPAC secretary; would you see intervening in such a process as one of your roles?

Mr EDWARDS - You have obviously asked the former secretary about her involvement in that. What I am saying is that I give advice to the Government. If the Government wanted my advice on positions then I am happy to make it but it is not a formal part of a statutory process for appointment. I think part of what you have talked about is articulating more clearly that sort of process and what advice is taken into account.

CHAIR - Okay. So clearly you would give advice to Government but not intervene on your own?

Mr EDWARDS - My role is to give advice to Government if I was asked about these appointments.

CHAIR - You would be aware that there have been questions asked publicly as to whether you received a telephone call from Darren Hine the day before Richard McCreadie's return was announced. Did you receive such a call?

Mr EDWARDS - What is the date of it? I talk to Darren Hine from time to time.

CHAIR - The announcement of Mr McCreadie's return was on 16 October.

Mr EDWARDS - So on the night of 15 October?

CHAIR - Yes, or any time immediately preceding that.

Mr EDWARDS - I would have to check. I think it was reported in the *Examiner* that there was a story in relation to the intention to appoint Richard McCreadie. I had a phone call

from Darren Hine saying, 'There's a story running. Do you have any information about this?'. I said 'No' and that was the end of the conversation.

CHAIR - So you knew nothing about the intended return of Richard McCreadie?

Mr EDWARDS - No. I think I would have known about discussions about appointing an acting commissioner, whether or not Richard McCreadie was one of the options, but that didn't mean it was my job to tell the acting commissioner, Darren Hine, of that.

CHAIR - So you did know that there was an intention to bring somebody in over the top of the then acting commissioner Darren Hine?

Mr EDWARDS - I knew there were discussions that one of the options available to the Government was to appoint someone in that role, other than have the acting commissioner stepping up.

CHAIR - So when Darren phoned you, you weren't at liberty to let him know that you knew of those intentions of the Government?

Mr EDWARDS - The intention of the Government is when it has made its mind up and announces its intention. My understanding of those events is that the Premier met Darren Hine that morning - if we are talking about a conversation the night before - and informed him of his intention to announce the appointment of Richard McCreadie.

CHAIR - You would understand, of course, that Darren would be quite concerned when it was brought to his attention that the intention to return Mr McCreadie was in play?

Mr EDWARDS - The phone conversation wasn't about his concern about it, no.

CHAIR - What was the phone conversation about?

Mr EDWARDS - Was I aware that this story was running?

CHAIR - And you were aware the story was running?

Mr EDWARDS - I was aware because he told me.

CHAIR - Again, specifically, is that the sort of operational flexibility that you think is important? I understand from the contributions of Bob as well that it doesn't fit within your delegated responsibility, nonetheless it is a really important matter as to public confidence and proper process. Is that the sort of operational flexibility that is necessary so that the Government can move if it feels the need?

Mr EDWARDS - It is set out in the act in terms of making a recommendation about the appointment of a commissioner or temporary acting commissioner or whatever. The Government has those opportunities available to it. Flexibility, when we were talking about it earlier, is about me and my work force. The Commissioner of Police or Assistant Commissioner of Police are not part of my work force.

CHAIR - Given that you were aware that the Government had considered bringing somebody in over the top of Darren Hine, can you indicate to the committee who raised the idea of appointing Richard McCreadie?

Mr EDWARDS - I'm not sure. The ability to do it is outlined. I'm not sure when the first mention was of who that person should be.

CHAIR - Can you indicate to the committee what process was used to progress that appointment?

Mr EDWARDS - It's not something you could ask me about.

CHAIR - So you don't know what process was used, notwithstanding that you knew that there had been some discussions?

Mr EDWARDS - I knew that the Premier had - and I think it is in his answers to questions in Parliament - talked to his colleagues about the intention to appoint Richard McCreadie.

CHAIR - How did you become aware that it had coursed through the Government's mind?

Mr EDWARDS - No doubt in conversations with the Premier.

CHAIR - At what time would that have occurred?

Mr EDWARDS - I don't know.

CHAIR - Some days before or some weeks before the Premier made the announcement?

Mr EDWARDS - It wouldn't have been weeks before, probably days.

CHAIR - Thank you all very much for appearing here today. We will take serious account of the things you have shared with us because that is part of our understanding what has been lacking in the past and what needs to change into the future to make it a better process. Clearly there has been some concern across a range of jurisdictions as to what process has been unfolding in the past. Specifically the aborted appointment of Simon Cooper was an issue that has focused the mind of the committee. From that, we need to be cognisant of better processes going forward. It sounds as though you have already addressed a number of the issues in making suggestions or policy changes in the future.

THE WITNESSES WITHDREW.