

REVIEW OF VICTORIA'S EXECUTIVE OFFICER EMPLOYMENT AND REMUNERATION FRAMEWORK

SUMMARY REPORT
AUGUST 2016

VPSC

Victorian Public Sector Commission

The Victorian Government has vested the Victorian Public Sector Commission with functions designed to enhance the performance of the public sector – fostering the development of an efficient, integrated and responsive public sector which is highly ethical, accountable and professional in the ways it delivers services to the Victorian community.

The key functions of the Commission are to:

- strengthen the efficiency, effectiveness and capability of the public sector in order to meet existing and emerging needs and deliver high quality services; and
- maintain and advocate for public sector professionalism and integrity.

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GLOSSARY

Administrative Office	A body or group specified in an Order made under Section 11 of the PAA to be an Administrative Office.
CEO	Chief Executive Officer. A term used in this report to refer to the head of a public entity.
Declared Authority	An authority specified in an Order made under Section 104(2)(a) of the PAA to be a Declared Authority. Declared Authorities may be entities, groups of EOs or individual EOs, and are brought under VPS EO employment arrangements in the PAA.
Department	A type of VPS body established by an Order in Council under Section 10 of the PAA. Departments at 1 January 2015: Department of Economic Development, Jobs, Transport and Resources (DEDJTR); Department of Education and Training (DET); Department of Environment, Land, Water and Planning (DELWP); Department of Health and Human Services (DHHS); Department of Justice and Regulation (DJR); Department of Premier and Cabinet (DPC); and Department of Treasury and Finance (DTF).
EO	Executive Officer. Senior managers and leaders in the Victorian public sector who are employed by an EO contract of up to five years duration. EOs in the Victorian public service are people employed as EOs under Part 3 of the PAA. In public entities, a person is an EO if they are a Chief Executive Officer (or equivalent) or if they have significant management responsibility and receive a Total Remuneration Package (TRP) of \$152,560 per annum or more (as at 1 July 2015). Technical specialists who do not have a management function and people whose employment is regulated by an award or enterprise agreement are not included.
Executive data collection	An annual census of people employed as EOs under Part 3 of the PAA. The census is performed by the Victorian Public Sector Commission and gathers employment and demographic details for active, inactive and separated EOs.
Executives	This descriptor is used in this report to refer to senior managers and leaders in public sectors other than Victoria and in the private sector.
Framework	A general term used in this report to refer to Victoria's EO Employment and Remuneration arrangements.
FTE	Full Time Equivalent. This is defined as the number of hours an employee is engaged to work divided by the number of hours a full time employee is contracted to work. This enables the comparison of workforce statistics in organisations that have different rates of part time and full time employment.
GSERP	Government Sector Executive Remuneration Panel. This body governs the remuneration of EOs in public entities.
GSERP data collection	An annual census performed by the VPSC that gathers employment and remuneration data for active EOs in public entities.
Headcount	The number of people employed in an organisation, whether employed full time, part time or casual.
Industry group	Used to describe the composition, size and profile of segments of the Victorian public sector and its workforce. There are seven industry groups: Public health care; Government schools; TAFE and other education entities; Police and emergency services; Water and land management; Victorian Public Service; and Arts, finance, transport and other.

PAA	<i>Public Administration Act 2004.</i>
Part time employees	Employees who are contracted to work fewer than full time hours (as defined in the relevant award or agreement). Part time employment is not restricted to particular employment arrangements. Ongoing, fixed term, and casual employees can all work part time. All employees with an FTE below 1 are considered part time.
Portfolio	Public sector organisations (public service and public entities) that are responsible to a specific public service Department and associated Minister.
Principal Scientist	A classification of VPS employee under the <i>Victorian Public Service Enterprise Agreement 2016</i> . The agreement does not include a definition of Principal Scientist.
Public entity	As defined in Section 5 of the PAA, public entities are statutory authorities, state owned corporations and advisory bodies that exercise a public function. Established outside of the VPS, they operate with varying degrees of autonomy and are ultimately accountable to a Minister for their performance.
Public sector	The Victorian public sector is defined in the PAA. It is made up of: <ul style="list-style-type: none"> ▪ the Victorian Public Service (VPS); ▪ public entities; and ▪ special bodies. Special bodies are listed in Section 6 of the PAA. The majority are VPS employers.
Public service body Head	As defined in Part 1 of the PAA, a public service body Head means: <ul style="list-style-type: none"> ▪ in relation to a Department – the Head of that Department; or ▪ in relation to an Administrative Office – the Head of that Administrative Office; or ▪ in relation to the Victorian Public Sector Commission – the Victorian Public Sector Commissioner.
RoR	Right of Return. Under Section 27 of the PAA, an EO who has been continuously employed as an EO and who immediately prior to being an EO was employed as a VPS non-executive employee is entitled to a VPS role if their EO contract is terminated by the employer for anything other than misconduct, or if the EO contract expires. The EO returns to the highest VPS classification (STS) at the midpoint of the remuneration range, or their previous EO remuneration, whichever is lower. The EO contract provides for four months' notice or pay in lieu thereof upon termination; pay in lieu thereof cannot be taken if the EO exercises their Right of Return.
Secretary	Head of a Department in the VPS.
Senior Medical Adviser	A classification of VPS employee under the <i>Victorian Public Service Enterprise Agreement 2016</i> . The agreement does not include a definition of Senior Medical Adviser.
Senior Regulatory Analyst	A classification of VPS employee under the <i>Victorian Public Service Enterprise Agreement 2016</i> . The agreement does not include a definition of Senior Regulatory Analyst.
STS	Senior Technical Specialist. Defined as experts in specific fields of work, whose roles primarily involve specialist work rather than people management, and whose knowledge is rare and therefore highly valued (beyond the market value of a VPS-6).
Specialist	General title used in this report to refer to Principal Scientists, Senior Medical Advisers, Senior Regulatory Officers and Senior Technical Specialists.
Subordinate EOs	A general title used in this report to refer to EOs who are not the heads of VPS agencies or public entities.
TAFE	Technical and Further Education. Institutes that provide vocational training and education services, including programs and courses, to school leavers, adults, apprentices and employees.
TRP	Total Remuneration Package. This is the sum of an EO's salary (annual value of cash component), employer superannuation contributions and the cost of any fringe benefits (plus any associated fringe benefits tax).

VSB	Victorian Secretaries Board. Comprised of the Secretaries of each Department, the Chief Commissioner of Police and the Victorian Public Sector Commissioner. The aim of the board is to coordinate policy initiatives across the public sector.
VPS Agency	A general term used in this report to refer to VPS employers.
VPS	Victorian Public Service. As defined in Part 3 of the PAA, the VPS consists of staff employed in: <ul style="list-style-type: none"> ▪ Departments; ▪ Administrative Offices; ▪ the Victorian Public Sector Commission; and ▪ other bodies and offices designated as public service employers by specific legislative reference (including the majority of special bodies, as described in the Public sector definition above), and entities (or individuals) that are Declared Authorities under the PAA.
VPSC	Victorian Public Sector Commission. A public sector body established by the PAA to: <ul style="list-style-type: none"> ▪ strengthen the efficiency, effectiveness and capability of the public sector in order to meet existing and emerging needs and deliver high quality services; and ▪ maintain, and advocate for, public sector professionalism and integrity.
VPS-6	A VPS classification set out in the <i>Victorian Public Service Enterprise Agreement 2016</i> .
Work value	The review considers work value to be the numeric score of a role, relative to other roles in the organisation, calculated by assessing the functions, responsibilities, accountabilities and skills required for the position-holder to satisfactorily perform the duties of the role.
Workforce	A general title used in this report to refer to a group of employees, such as the EO workforce.
Workforce data collection	An annual census of Victorian public sector employees undertaken by the VPSC. It provides a snapshot of: <ul style="list-style-type: none"> ▪ people employed and paid in the last pay period of June (active employees, including EOs); and ▪ people who ceased to be employed during the reporting year (separated staff).

FOREWORD

In July 2015 the Premier directed the Victorian Public Sector Commission (VPSC) to review Victoria's executive officer (EO) employment and remuneration framework.

The review was the first comprehensive examination of Victoria's EO employment and remuneration arrangements in over two decades. It provided an opportunity to consider optimum arrangements for the employment of high performing Victorian public sector leaders now and into the future.

The review found that current Victorian Public Service (VPS) employment and remuneration arrangements are not best placed to support a high performing EO workforce. Fundamentally, current arrangements do not provide transparency, fairness and rigour in classification and remuneration of EOs. In addition, Victoria's EO employment offer does not incentivise movement from the non-executive public service workforce into the EO classification, and is uncompetitive with other jurisdictions.

These matters cannot be addressed with minor amendments or better adherence to current policies and guidance. Instead, significant changes to key elements of the current employment and remuneration arrangements are required in order to establish a clear and effective framework. Key changes proposed are:

- The development of a **new framework for classifying and remunerating** public service executives on the basis of work value.
- Changes to **employment terms and conditions** so that Victoria's executive offer is more competitive.
- Stricter requirements and improved guidance on **performance management processes**.
- More **systematic oversight and governance** of the workforce, including a single point of oversight for significant remuneration decisions and analysis of public sector EO employment trends.
- **Public entity industry segment reviews** to examine the applicability of the proposed VPS employment arrangements to the broader public sector.

These proposed changes are intended to drive greater integrity, accountability and value for money. At the same time, they provide a sound basis for employers to structure and remunerate their workforce based on current needs, rather than history and arbitrary thresholds. Importantly, the reforms are intended to attract and retain high performing EOs, and establish Victoria as an employer of choice for public sector executives in Australia.

I look forward to working with Government, and with colleagues across the VPS and broader sector to strengthen public sector EO employment.



BELINDA CLARK QSO

VICTORIAN PUBLIC SECTOR COMMISSIONER

EXECUTIVE SUMMARY

VPS EOs are essential to the delivery of effective public services, the realisation of Government objectives and stewardship of the public service. EOs are accountable for: substantial budgets and assets; the management of considerable risks; and are responsible for delivering a wide range of services and outcomes for the Victorian community.

Given their significance, it is important that Victoria attracts and retains high performing EOs. It is also important that arrangements governing the employment of the EO workforce support employers to organise their workforce to best respond to the challenges they face.

The Review of Victoria's Executive Officer Employment and Remuneration Framework (the review) is the first comprehensive examination of Victoria's EO employment and remuneration arrangements in over two decades. The review found that current arrangements are not best placed to secure and support a high performing EO workforce. Fundamentally, there is no clear employment and remuneration framework. Arrangements are a mix of legislation, policy and convention that have evolved over time as a consequence of piecemeal changes. When considered as a whole, current arrangements are neither fit for purpose nor best practice. Key limitations with current arrangements are as follows:

- The EO classification and remuneration framework is out of date and out of step with other jurisdictions. Current arrangements do not provide transparency or rigour in the classification and remuneration of EOs. This has resulted in inconsistencies and discrepancies in EO remuneration across government.
- Victoria's EO employment offer does not incentivise internal candidates to move into EO roles and is uncompetitive with other jurisdictions.
- Governance arrangements are focused on a small set of policies that have little, if any, bearing on the quality of EO leadership, with limited oversight of the EO workforce as a whole. There are arbitrary limitations on the size and composition of the EO workforce, which has resulted in perverse incentives in how EO functions are staffed. The separation of remuneration oversight and governance responsibility between the Department of Premier and Cabinet (DPC) which is responsible for the VPS, and the Government Sector Executive Remuneration Panel (GSERP) which covers public entities, limits a systems perspective on remuneration decisions.
- Performance management arrangements require strengthening to create clear accountabilities for EOs and to ensure links between individual performance requirements and whole of government priorities.

Based on these findings, the review recommends comprehensive changes to EO employment and remuneration arrangements. Key changes proposed are:

- the development of a new classification and remuneration framework based on work value, which VPS agencies would be required to use to classify and remunerate EOs;
- a revised VPS employment offer that incentivises movement into EO roles and is more competitive with other jurisdictions;
- new governance arrangements, including a public sector EO remuneration panel and new reporting arrangements in place of the current cap on VPS EO numbers; and
- a new approach to managing VPS EO performance which supports the setting of clear expectations and standards for EOs.

There is also a need to urgently examine and review employment and remuneration arrangements in public entities, including bonus provisions. This should test the feasibility of the proposed VPS arrangements for the broader public sector, and consider if any industry-specific arrangements are required.

These proposed changes to Victoria's EO employment arrangements are extensive. Together, they will provide a more effective management structure to support Victoria to attract, retain, develop and deploy a highly effective EO workforce.

Key findings

The classification and remuneration framework

The current framework for classifying and determining the remuneration for VPS EOs is no longer fit for purpose. The band framework was introduced in 1995 and has not been reviewed since, despite changes in its use. When it was introduced, the bands did not overlap as they do now. Key problems with the current band framework include:

- the lack of clear description of, or distinction between, the EO classification bands;
- wide and overlapping remuneration bands;
- work value expectations higher than those of other jurisdictions for the same remuneration;
- constraints on the most senior EO classification;
- perceived limitations of the work value system which underpins the bands; and
- limited prescribed processes for classification and remuneration decisions.

These arrangements have led to discrepancies in EO expectations, classification and remuneration across VPS departments (including for like roles); and to varied departmental structures and nomenclature. This undermines performance management, mobility between departments, and has potentially undermined Victoria's ability to attract and retain high performing EOs.

The employment offer

The current EO employment offer is not competitive with other jurisdictions. Furthermore, the overlap between VPS-6 and EO-3 remuneration is a disincentive to upward movement into EO-3 roles. This overlap has occurred as a consequence of historically higher annual increases for non-EO VPS employees and will worsen over time unless the base of the EO remuneration range is increased, and the practice of differential annual increases for non-EO and EO staff is altered.

The four month 'at will' termination clause is inadequate compared with other jurisdictions and deters candidates from other jurisdictions or overseas. In addition, some elements of Victoria's employment offer are problematic. Current bonus arrangements are ineffective in driving performance, and the Right of Return (RoR) provision is being misused.

While there are mixed views, there is appetite for longer term contracts to be used to incentivise movement to EO roles and to balance the proposed removal of RoR. This would also foster an EO workforce with a longer term agenda that is responsible for stewarding the public sector.

Governance and oversight

Current EO workforce governance and oversight arrangements are fragmented and do not support a systems view on EO remuneration or EO workforce trends across the public sector. Further, the oversight arrangements that are in place (in particular the EO cap which controls VPS EO numbers) have led to perverse and unintended outcomes.

EO remuneration oversight and governance responsibilities are split across government. Remuneration approval requirements are overseen by the Premier (for the VPS) and GSERP (for public entity EOs).¹ There is no formal link between these two authorising bodies which risks inconsistent remuneration decisions

¹ GSERP is the decision-making and advisory body that governs the remuneration of EOs in public entities. GSERP comprises the Victorian Public Sector Commissioner as Chair and the Secretary of the portfolio Department covering the relevant public entity. GSERP is supported by the Victorian Public Sector Commission as Secretariat.

across the public sector and limits a systems perspective on remuneration decisions. This is of particular concern for industries that have agencies in the VPS and in public entities, for example the transport sector.

The cap on VPS EO numbers has controlled the number of VPS EOs, but not the number of highly paid staff in government. The cap has incentivised the misuse of alternative workforces in EO-like roles, including Specialists and contractors. The high growth in Specialists is particularly problematic as these workforces are often employed in EO-like roles, but have VPS conditions and are therefore not employed and managed as part of the EO workforce.

There is limited oversight of the VPS EO workforce as a whole including analysis of trends in gender and diversity, remuneration and performance outcomes.

Performance management

There are ad-hoc and inconsistent approaches to EO performance management across the VPS. Administrative effort is directed to bonuses, with evidence suggesting that contract schedules and performance plans are not universally completed. Contract cessation or 'at will' termination are often used in lieu of a performance management process to address poor performance.

There is no common capability framework to articulate the expectations of EOs, or assess and develop EOs in accordance with the capabilities required for success. Furthermore, Victoria does not have formal links between EO performance plans or whole of government objectives.

In conjunction with this review, the VPSC has:

- undertaken a Review of the Victorian Leadership Development Program (VLDP); and
- developed a Victorian public sector Leadership Capability Framework.

The VLDP review highlighted the need for a new approach to leadership development. The Leadership Capability Framework articulates key skills and capabilities for the public sector leadership. The Victorian Public Sector Leadership Capability Framework will be used to develop assessment and diagnostic tools that will underpin the new model for leadership development proposed by the VPSC review of the VLDP.

Distinction between the VPS and public entities

While some public entities are similar to VPS agencies and could be covered by the same employment and remuneration arrangements, others are significantly different and may require industry-specific arrangements. It was beyond the scope of this review to conduct industry segment reviews across the broader public sector.

RECOMMENDATIONS



Division in VPS and public entity arrangements

Primary recommendation 1

That Government agrees to the VPSC conducting industry segment reviews of EO employment and remuneration arrangements in public entities, including bonus provisions.



The classification and remuneration framework

Primary recommendation 2

That Government agrees to the development of a new framework for classifying and remunerating VPS EOs which balances the need for remuneration to match work value and the need for employer discretion. The framework should include:

- 2.1** a new work value assessment system which adequately reflects the expectations and requirements of diverse public service EO roles, and which supports in-house assessments;
- 2.2** three clearly distinct bands, with clear descriptions and no overlap in remuneration;
- 2.3** a requirement for VPS agencies to conduct a work value assessment and to classify and remunerate EO roles according to the assessment outcome;
- 2.4** employer discretion over individual EO remuneration (within the band); and
- 2.5** a recruitment and retention payment framework to support remuneration outside the band when required, with payments approved by a proposed public sector EO remuneration panel.

Supporting recommendation 2A

That Government agrees to the new classification and remuneration framework including:

- 2A.1** standard titles for similar roles;
- 2A.2** bands renamed and re-ordered to be consistent with other jurisdictions (Senior Executive Service (SES); SES-1 as the lowest classification);
- 2A.3** removal of restrictions on the creation of and remuneration for EO-1 roles; and
- 2A.4** work value assessments for work contribution streams such as policy, regulatory and delivery roles.

Supporting recommendation 2B

That Government agrees to a proposed public sector EO remuneration panel Secretariat conducting regular analysis of EO trends, including remuneration trends across departments, and that summary reports be provided to VSB.



The Employment Offer

Primary recommendation 3

That Government agrees to adopt a new VPS EO employment offer with:

- 3.1** an increase to the base of the EO remuneration range from \$152,560 to \$175,000;
- 3.2** fixed term contracts with no threshold on contract duration;
- 3.3** improved 'at will' termination provisions (from four months to nine months);
- 3.4** removal of Right of Return (prospectively, grandfathered for EOs with current entitlement); and
- 3.5** removal of the bonus provision with compensation for EOs who agree to the removal of bonuses from their contract.

Supporting recommendation 3A

That Government agrees to:

- 3A.1** maintain the proposed remuneration differential between the top of VPS-6 remuneration and base EO remuneration; and
- 3A.2** align VPS and EO annual adjustments to avoid salary overlap in the future.



Public Sector EO Oversight and Governance

Primary recommendation 4

That Government agrees to:

- 4.1 establish a public sector EO remuneration panel to approve remuneration for specific classes of public sector EOs (e.g. CEOs of public entities) and approve exemptions to the VPS EO framework. The panel should be supported by a VPSC Secretariat which should also support VSB with broader oversight of the VPS EO workforce (including data and trend analysis); and
- 4.2 remove the cap on VPS EO numbers and increase VPS reporting requirements. New reporting requirements should include all employees paid above the VPS-6 salary range (including Specialists and contractors).

Supporting recommendation 4A

That Government agrees to update Specialist classifications, specifically to:

- 4A.1 review the existing definition of the STS classification; and
- 4A.2 create definitions for the Senior Medical Adviser, Senior Regulatory Analyst and Principal Scientist classifications.

Supporting recommendation 4B

That Government agrees to remove the cap on the STS workforce.



Performance Management

Primary recommendation 5

That Government agrees to:

- 5.1 require, at a minimum, VPS employers to complete employee contract schedules and EOs to complete performance plans;
- 5.2 review and strengthen the 'underperformance clause' in the standard EO contract to improve performance management processes;
- 5.3 update the *Victorian Public Service Executive Employment Handbook* to provide detailed guidance on performance management processes; and
- 5.4 the VPSC in consultation with VSB developing a performance framework that enables benchmarking of EO performance across agencies.



Implementation

Primary recommendation 6

That Government agrees to a staged approach to implementing recommended reforms.



Other recommendations

That Government agrees to:

7. consider increasing Secretary remuneration to reflect the size and complexity of the role, and to better align with comparable jurisdictions;
8. express the EO remuneration offer as including salary and any other benefits plus superannuation (rather than a TRP); and
9. revise VPS and public entity EO standard contracts to reflect current employment standards and principles (including an increased focus on integrity); and to reflect broader amendments to the EO employment and remuneration framework arising from this review.

1. BACKGROUND

About the review

On 28 July 2015, the Premier directed the VPSC to review the EO Employment and Remuneration Framework.

The full Terms of Reference for the review are at Appendix A.

The review undertook significant data analysis and consultation. Unless otherwise specified, all data in this report is as at 30 June 2015. Consultation findings relate to the period June 2015 – June 2016. Consultations included:

- meetings with Secretaries and Deputy Secretaries in all departments and Victoria Police;
- meetings with the heads of two Administrative Offices and one Declared Authority;
- two workshops with a selection of public entity board Chairs;
- two workshops with a selection of public entity Chief Executive Officers (CEOs);
- discussions with a selection of recruitment agencies focused on executive recruitment; and
- consultations with representatives from the public services of Australia (APS), New Zealand (NZ), New South Wales (NSW), Queensland (QLD), Northern Territory (NT), Western Australia (WA), South Australia (SA) and Tasmania (TAS).²

Focus on VPS

The Terms of Reference sought advice on optimum employment and remuneration arrangements for the VPS and public entities, and whether a common framework would be used across the public sector. The review determined that public entity employment and remuneration arrangements need to be considered on an industry segment basis and that it was beyond the scope of this review to undertake these industry segment reviews. As a result, the analysis and recommendations of this review are largely focused on recommendations concerning the VPS.

Comparability with other jurisdictions

In accordance with the Terms of Reference, the review examined employment and remuneration arrangements in other jurisdictions throughout Australia. Particular focus was paid to arrangements in the APS, QLD and NSW, which the review considered the most comparable to Victoria in relation to budget, population and government structure (i.e. number of departments).³

² Australian Public Service Commission, New Zealand's State Services Commission, New South Wales' Public Service Commission, Queensland's Public Service Commission, Northern Territory Office of the Commissioner for Public Employment, Western Australia's Public Sector Commission, South Australia's Office for the Public Sector and Tasmania's State Service Management Office.

³ A recent Mercer report concluded that NSW, Victoria, QLD, and the APS were the most comparable jurisdictions in relation to labour market size and complexity (Mercer 2015, *Review of NSW Public Service Remuneration for the NSW Public Service Commission*, <http://www.psc.nsw.gov.au/reports---data/other-publications/review-of-nsw-public-service-remuneration>, p.63).

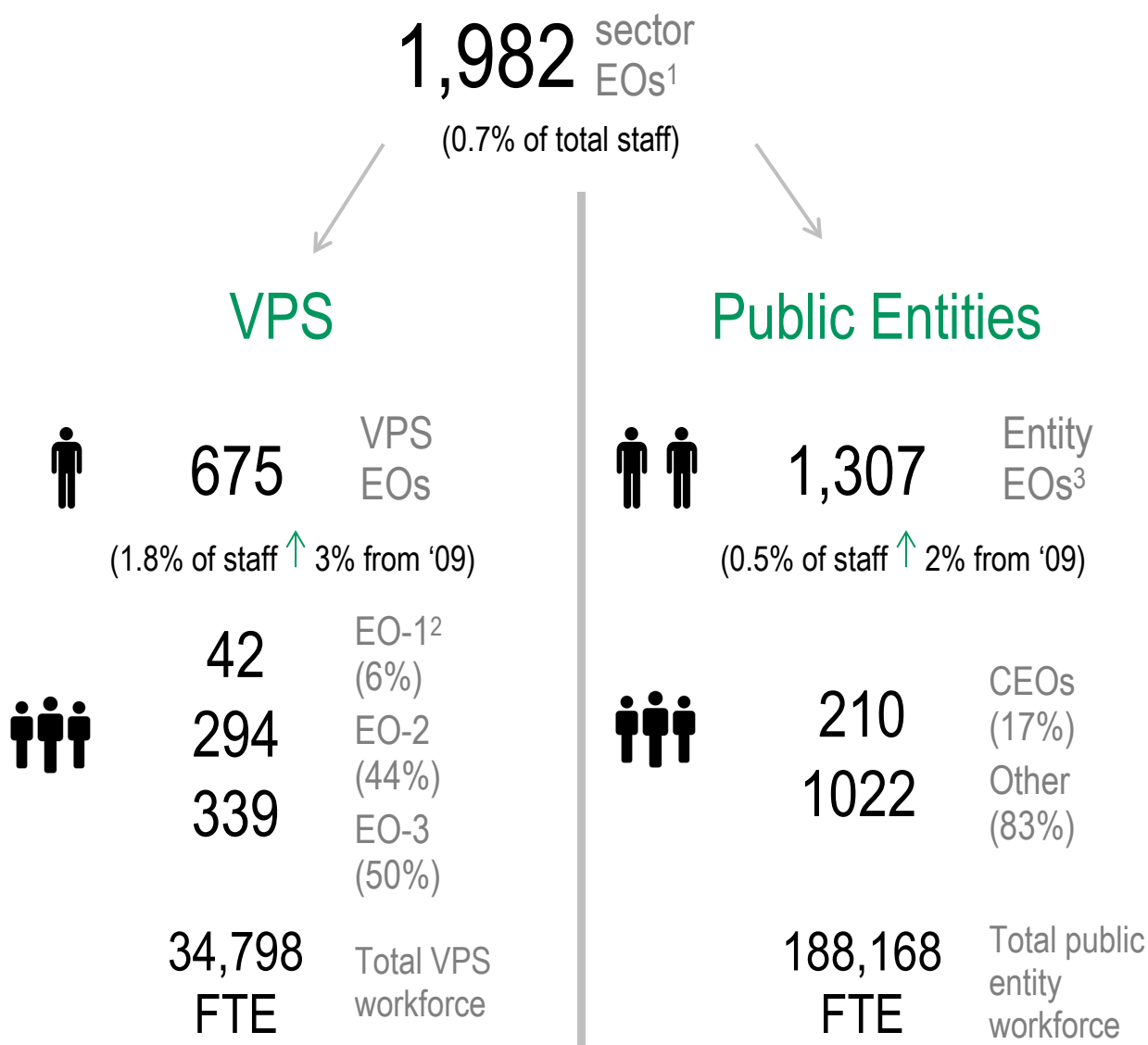
Size and composition of the public sector EO workforce

The Victorian public sector EO workforce comprises two EO groups:

- **VPS:** EOs employed in Departments, Administrative Offices, the VPSC, and other bodies designated as public service employers by legislation, and entities (or individuals) that are Declared Authorities under the *Public Administration Act 2004* (PAA)⁴; and
- **public entities:** EOs employed in statutory authorities, state-owned corporations and advisory bodies that exercise a public function (e.g. TAFEs, public hospitals).

Key data is outlined in Figure 1.

Figure 1: Victoria's public sector EO workforce, key facts



¹ As at April 2016.

² Includes Secretaries, to ensure consistency with the *State of the Public Sector in Victoria 2014-15* report.

³ Total public entity EO numbers include Declared Authorities (76), which are excluded from the CEO breakdown.

⁴ Declared Authorities are entities bound by key aspects of the PAA (such as the VPS EO employment policies), as set out in the Order of the Governor in Council that established the body as a Declared Authority.

Current employment and remuneration arrangements

Current employment and remuneration arrangements for the VPS and public entities are set by a number of mechanisms including legislation, Government policy and convention.

Similarities and differences between VPS and public entity arrangements

While some EO employment and remuneration arrangements are common to both VPS EOs and public entity EOs, there are also some significant differences in arrangements. Differences are summarised in Table 1.

GSERP is the decision-making and advisory body that governs the remuneration of EOs in public entities. GSERP comprises the Victorian Public Sector Commissioner as Chair and the Secretary of the portfolio department covering the relevant public entity. GSERP is supported by the VPSC as Secretariat.

Table 1: Comparison of EO employment and remuneration arrangements in the VPS and public entities

EO Policy	VPS	Public Entities
EO bands (set structure and remuneration)	✓	Limited to some Chief Executive Officers (CEOs)
Caps on EO numbers	✓	x
Right of Return to non-executive roles on contract termination	✓	x
Bonus controls	High controls	Lower controls
Approval of high remuneration	Premier	GSERP (Minister on occasion)

Key features of VPS and public entity employment arrangements

The key features of current VPS and public entity employment arrangements are set out below.

Definition of an EO

VPS EOs are defined as anyone employed as an EO under Part 3 of the PAA.

Public entity EOs are defined in Government policy as:

- any person considered to be a CEO or equivalent; and
- any person who has significant management responsibilities and a remuneration package equal to or greater than base VPS EO remuneration (\$152,560 as at July 2015).

Standard contract

EOs are employed on standard EO contracts. There are separate contracts for VPS and public entity EOs, though they contain similar provisions. In both the VPS and in public entities:

- EOs are appointed to specific positions on fixed term contracts of up to five years duration;
- contracts can be renewed; and
- contracts can be terminated 'at will' with four months notice or pay in lieu thereof, with four weeks notice in instances of poor performance, or immediately in instances of serious misconduct.

Right of Return

Some VPS EOs have access to a RoR provision under section 27 of the PAA. This provision entitles some EOs to a non-executive position if their EO contract expires or is terminated. The RoR provision is limited to EOs:

- who immediately before their first employment as an EO, were non-executive VPS staff; and
- who since that time have been employed continuously as an EO; and
- who have had their contract terminated by the employer for any reason other than serious misconduct, or whose contract has not been renewed.

When RoR is exercised, the individual returns to the highest classification within the VPS employment framework (Senior Technical Specialist (STS)) at the mid-point of the remuneration range, or their previous EO remuneration, whichever is lower. RoR is designed to encourage the movement of VPS staff to EO roles, recognising the less secure nature of EO employment (fixed term employment), and to support the provision of 'frank and fearless' advice with the provision of security of employment. The RoR provision does not apply to public entity EOs.

Bonuses

Standard VPS and public entity EO contracts provide for annual performance-related incentive payments (bonuses). Policy arrangements regarding bonuses vary across the VPS and public entities. In the VPS, the upper limit is 17 per cent; in public entities upper amounts depend on the bonus policy in place, but can be 10 per cent (health sector), 17 per cent, or 20 per cent (in situations where legacy arrangements apply).

Workforce structure

In the VPS, EOs are appointed to specific positions classified into one of three EO bands. Each band has a minimum and maximum remuneration amount. Table 2 outlines the VPS EO classification and remuneration framework, including remuneration ranges as at July 2015. The EO structure sits on top of a seven band non-executive structure in which bands one to six are VPS officers and band seven is for STS'. There is no set framework (like that shown for the VPS in Table 2) for public entity EOs.

Table 2: VPS EO bands

Band	Definition	Work value	Remuneration (1 July 2015)	
			Minimum	Maximum
EO-1	Agency Head of a substantial public authority, the most senior program managers and Deputy Secretaries in the VPS.	2,200 and above	\$276,044	\$404,051
EO-2	Deputy Secretary and Agency Heads of major agencies, divisions or significant programs.	1,125 to 2,199	\$189,952	\$304,034
EO-3	Program, policy and service delivery managers, regional and area managers in some departments and Agency Heads of smaller agencies.	701 to 1,124	\$152,560	\$212,853

Remuneration

Remuneration for VPS EOs is set according to the relevant EO band (see above at Table 2). Employers have discretion to set remuneration of EO-2 and EO-3 staff within the relevant band. The Premier has responsibility for setting remuneration for Public Service Body Heads, and approving remuneration for EO-1s and other EOs paid above the maximum of the EO-2 range.

Remuneration for public entity EOs is overseen by GSERP. GSERP is responsible for approving CEO remuneration, and remuneration for other public entity EOs where:

- the entity is newly established;
- the Total Remuneration Package (TRP) proposed for an individual EO is greater than 80 per cent of the TRP set by GSERP for the CEO; and/or

- the average TRP of all the CEO's direct reports will exceed 70 per cent of the CEO's TRP.

Within the broad parameters outlined above, remuneration of subordinate public entity EOs is determined by boards and CEOs. In some circumstances, GSERP has developed specific industry segment remuneration guidance. This is generally limited to remuneration ranges for CEOs. The health sector framework also covers some non-CEO roles such as Directors of Finance, Corporate and Human Resources.

Current Government policy requires that VPS agencies and public entities establish a remuneration committee with specific responsibility for overseeing EO remuneration within their organisations.

Control of EO numbers

VPS EO numbers are managed through caps. Departments (and some agencies) have an 'EO envelope' (referred to as a cap in this report) and must apply to the Premier to have this cap increased. Caps only apply to the VPS. There are no caps or restrictions on the number of EOs employed in public entities. In addition, some VPS agencies are exempted from the cap system on the basis of their independence (e.g. the Independent Broad-based Anti-corruption Commission). Declared Authorities are also exempt from EO caps.

Governance

Oversight and governance of employment and remuneration arrangements for Victorian public sector EOs are shared across different parts of Government. DPC is responsible for supporting the Premier in relation to employment and remuneration arrangements for VPS EOs. The VPSC is responsible for supporting GSERP in relation to EO employment and remuneration arrangements for public entities. See Table 3 for more detail.

Table 3: Division of oversight and governance arrangements for the Victorian public sector EO workforce

Area of responsibility	EO employment and remuneration arrangements	Approved / authorised by	Advice / support function
VPS EO classification and remuneration policies	VPS EO employment policies, including the standard contract	Premier	DPC
	Right of Return	Legislation (PAA)	
	Cap on EO numbers	Premier	
	Bonus policy	Premier	
VPS EO classification and remuneration decisions	Setting remuneration for public service body Heads (including Secretaries)	Premier	
	Approving EO-1 remuneration, and other remuneration above the maximum of the EO-2 band	Premier (Secretary, DPC, on delegation)	
	Classification and remuneration for EO-2 and EO-3 staff, within the relevant bands	Employers	
	VPS EO classification and remuneration band framework	Premier	
Public entity EO remuneration policies	Public entity EO employment policies, including the standard contract	GSERP (though based on VPS arrangements)	VPSC
Public entity EO remuneration decisions	Approving public entity CEO remuneration	GSERP	
	Approving subordinate EO remuneration that exceeds policy restrictions, or for new entities	GSERP	
	Subordinate EO remuneration in ongoing entities, within policy restrictions	Employers	

Performance management

The standard EO contract includes a schedule that sets expectations of an EO’s role. In addition, the VPS Executive Handbook sets out minimum requirements for performance management, including a requirement that EO performance must:

- be documented in a written format;
- be agreed between the EO and the employer;
- include measurable performance criteria that are fair and equitable; and
- be reviewed on a regular basis, at least twice a year.

2. DIVISION BETWEEN VPS AND PUBLIC ENTITY ARRANGEMENTS



Division in VPS and public entity arrangements

Primary recommendation 1

That Government agrees to the VPSC conducting industry segment reviews of EO employment and remuneration arrangements in public entities, including bonus provisions.

Key findings

Most VPS entities (particularly departments) are relatively homogenous in their form and function. Some industry groupings of public entities (e.g. hospitals and water authorities) differ significantly from each other and from the VPS. Some industry segments are represented in both the VPS and in public entities (e.g. transport).

The review considers that, while some public entities may be sufficiently similar to VPS agencies to enable them to be appropriately covered by the same employment and remuneration arrangements, other entities are significantly different, and may require arrangements which differ from the VPS.

The review considers that EO employment and remuneration arrangements in public entities should be reviewed on an industry-specific basis. A full review should examine:

- which agencies could appropriately be covered by the same employment and remuneration arrangements as the VPS;
- which public entities require industry-specific arrangements; and
- what industry-specific arrangements are required.

Completion of this work is beyond the scope of the current review. In the absence of assessment of these broader matters, the focus of this review's analysis, findings and recommendations has been on the VPS.

In later chapters of this report, the review has made comment that the separation of remuneration oversight and governance responsibility between DPC (which is responsible for VPS EOs), and GSERP (which is responsible for public entity EOs), limits a systems perspective on remuneration decisions. In accordance with this finding, the review has recommended reforms to amalgamate the current VPS and public entity remuneration governance arrangements to ensure consistency in decision-making processes, particularly decisions concerning industry segments that are represented in both the VPS and in public entities.

3. THE VPS CLASSIFICATION AND REMUNERATION FRAMEWORK



The classification and remuneration framework

Primary recommendation 2

That Government agrees to the development of a new framework for classifying and remunerating VPS EOs which balances the need for remuneration to match work value and the need for employer discretion. The framework should include:

- 2.1 a new work value assessment system which adequately reflects the expectations and requirements of diverse public service EO roles, and which supports in-house assessments;
- 2.2 three clearly distinct bands, with clear descriptions and no overlap in remuneration;
- 2.3 a requirement for VPS agencies to conduct a work value assessment and to classify and remunerate EO roles according to the assessment outcome;
- 2.4 employer discretion over individual EO remuneration (within the band); and
- 2.5 a recruitment and retention payment framework to support remuneration outside the band when required, with payments approved by a proposed public sector EO remuneration panel.

Supporting recommendation 2A

That Government agrees to the new classification and remuneration framework including:

- 2A.1 standard titles for similar roles;
- 2A.2 bands renamed and re-ordered to be consistent with other jurisdictions (Senior Executive Service (SES); SES-1 as the lowest classification);
- 2A.3 removal of restrictions on the creation of and remuneration for EO-1 roles; and
- 2A.4 work value assessments for work contribution streams such as policy, regulatory and delivery roles.

Supporting recommendation 2B

That Government agrees to a proposed public sector EO remuneration panel Secretariat conducting regular analysis of EO trends, including remuneration across departments, and that summary reports be provided to VSB.

Key findings

The current framework for classifying and determining the remuneration for VPS EOs is no longer fit for purpose. The band framework was introduced in 1995 and has not been reviewed since, despite changes in its use. Key problems and implications of the current band framework are outlined below.

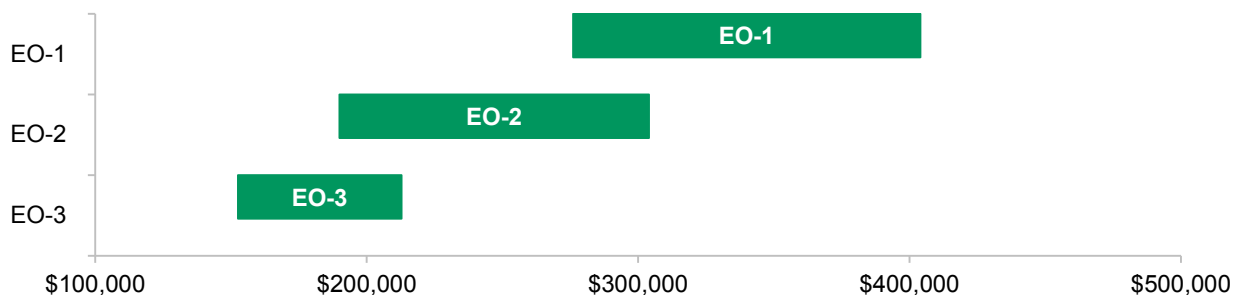
Limited distinctions between the EO classifications

There are limited descriptions of the functions and expectations for roles in each of the bands within the VPS EO classification and remuneration framework. This means there is limited shared understanding across the VPS regarding the types of roles and expectations of roles for each of the EO bands.

In addition, the remuneration ranges for each of the bands overlap. The overlap in EO remuneration was not included in the original band design. It has arisen over time due to a practice of applying the annual remuneration increase to the top but not to the base of the band.⁵

⁵ The annual adjustment was originally envisaged as a performance pay measure and could be withheld from EOs who were underperforming. In a desire for EOs not to fall below the base of the band, the annual adjustment was applied to the top of the band, but not the base, resulting in the overlap that exists.

Figure 2: VPS EO remuneration ranges by classification, adjusted for superannuation, 1 July 2015



An overlap in remuneration across the bands is at odds with a non-overlapping work value system. The overlap allows employers to set remuneration for junior and lower valued roles higher than remuneration for more senior and higher valued roles (see Figure 3).

Figure 3: Potential consequences of VPS EO band overlap



As a result of the limited distinctions between the EO classifications, inconsistencies in remuneration across VPS departments (including for like roles) have developed.

Victoria’s work value points and remuneration are not aligned with other jurisdictions

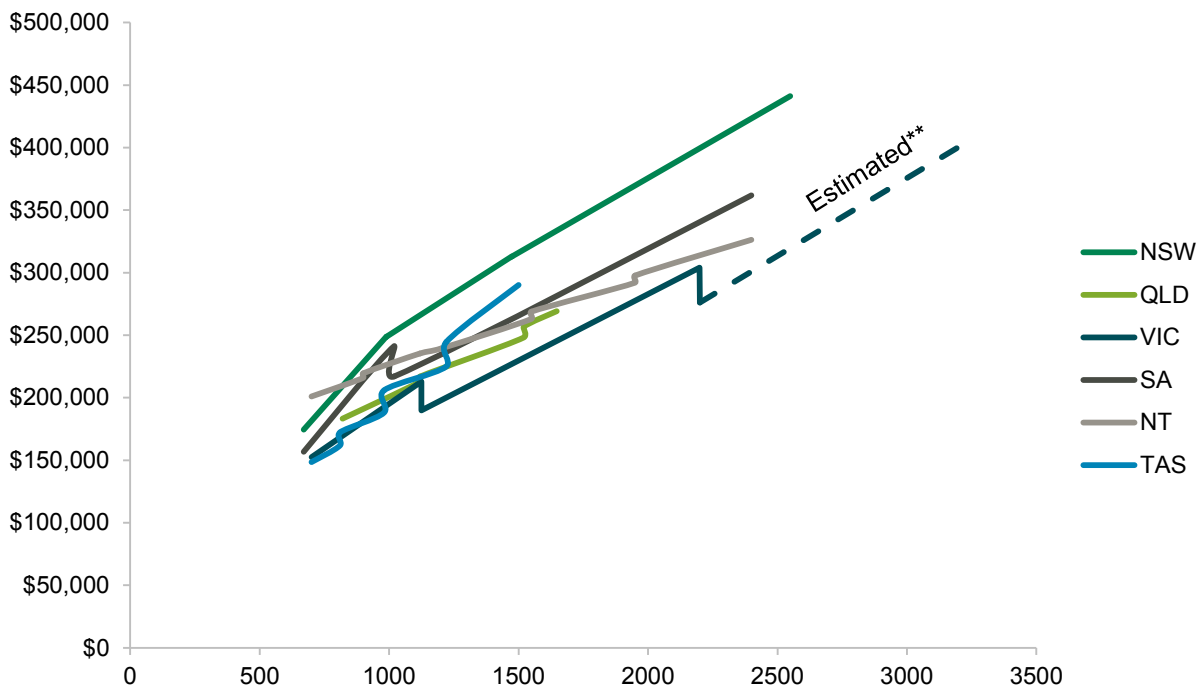
When introduced in 1995, the current EO band framework was originally a three band structure which included Secretaries (as EO-1s). The band framework has evolved over time. EO-1s are now senior Deputy Secretaries (among others) and Secretaries are now paid above the EO-1 level, but do not have a specific remuneration band.

When compared with other jurisdictions, there are two key problems with the evolution of Victoria’s work value points framework and associated remuneration ranges. These are shown in Figure 4 and summarised below.

- **Victoria’s work value points go higher than other jurisdictions for EO roles.** Victoria’s base EO-1 Mercer point is higher than the points for the highest EO role in other jurisdictions. Victoria’s EO-1 base Mercer point is in the top third of the Mercer range of NSW highest subordinate EO band and is commensurate with the work value expectations of some other jurisdictions’ Secretaries.
- **Victoria’s remuneration for similarly valued roles is lower than other jurisdictions.** While Victoria’s EO remuneration range is similar to other jurisdictions (e.g. NSW), remuneration for work value is lower in Victoria. For example, a role at the base of the EO-1 range in Victoria (2,200 Mercer points) has a base remuneration value almost \$100,000 lower than in NSW.

These issues may be compounded by the relatively large roles in Victoria in comparison to other jurisdictions.

Figure 4: The relationship between Mercer points and remuneration Australian jurisdictions*



Note: *The APS does not use the standard Mercer framework, and so is not included on this graph. ** Victoria and QLD do not have maximum Mercer points for their highest executive bands. The maximum has been estimated using the relationship between Mercer and remuneration at the lower levels. Conservative estimates have been chosen.

Controls on the creation of and remuneration for EO-1 roles

Current policy is that new EO-1 roles, remuneration for EO-1 roles and other roles remunerated above the EO-2 range, require the approval of the Secretary, DPC (on delegation from the Premier). These requirements may have resulted in reduced use of the EO-1 classification, even when it would have been appropriate. Supporting this, consultees advised of instances where they were unable to attract executives from other jurisdictions due to Victoria’s lower remuneration for similarly valued roles. This is despite Victoria’s total remuneration span being similar to that of other jurisdictions (see Figure 5).

Figure 5: Executive remuneration span across Australian jurisdictions*



Note: *This is actual remuneration in the Australian Public Service (APS).

Policy constraints on the most senior EO classification may also have contributed to a greater proportion of lower paid executives in Victoria than in the most comparable jurisdiction (NSW).

Supporting this, data shows that:

- while only five per cent of VPS EOs (excluding Secretaries) are EO-1s, approximately 12 per cent of NSW executives are in the EO-1 equivalent band;⁶ and
- when current remuneration paid to Victorian EOs is overlaid onto the NSW classification and remuneration framework, Victoria has a greater proportion of EOs at the lowest classification (see Table 4).

This comparison has been limited to NSW due to the different band framework designs, varied remuneration spans and minimal data availability for other jurisdictions.

The review was not advised of any similar controls in other jurisdictions on the highest EO classification.

Table 4: EOs in different levels in NSW and Victoria

Jurisdiction	EO-3 equivalent	EO-2 equivalent	EO-1 equivalent
NSW (2015 State of the Sector report) ⁷	62%	27%	12%
VIC (modelled against NSW' band framework) ⁸	80%	14%	5%

Limitations of the current work value system

The current VPS EO classification and remuneration framework is based on a points factor work value system. A points system attributes points to roles based on a range of factors. Victorian consultees (and

⁶ This figure is as at 2015 and is based on the number of EO-1 equivalent executives in NSW who had transitioned to the new framework. It may not reflect final numbers. (NSW Public Service Commission 2015, *To the next level: State of the NSW Public Sector Report 2015*, p.40).

⁷ 2015 data. Concerns EOs that have transitioned to the new classification and remuneration framework and may not be indicative of final numbers. Amount does not equal 100% due to rounding, and the inclusion of Secretaries in total numbers. (NSW Public Service Commission 2015, *To the next level: State of the NSW Public Sector Report 2015*, p.40).

⁸ Amount does not add to 100% due to rounding, and inclusion of Secretaries in raw numbers.

inter-jurisdictional counterparts) questioned the utility of the current points system as it stands and its ongoing benefit to the Victorian public sector. Specifically, the review was advised that the current points system used in Victoria:

- Does not capture the right metrics. It was seen as focusing on metrics most relevant to the private sector (such as profit and loss); undervaluing service delivery roles; and overvaluing policy/strategy management roles.
- Is difficult to administer 'in-house'. It is seen as unnecessarily complicated; administratively burdensome; and as requiring an undue reliance on external consultants. To evaluate a role, individuals must attend a two day \$2,595 workshop;⁹ or outsource the evaluation, at an estimated minimum cost of \$5,000 per role.¹⁰

It was generally acknowledged that a work value points system is required to evaluate the comparative size and complexity of EO roles, but that the current points system may need to be adjusted or a new system developed that is appropriate for the Victorian public sector context.

In the absence of systematic work value assessments and benchmarking, the review was informed that VPS EO remuneration is often based on factors other than the requirements or work value of the role. Specifically, the review was advised that remuneration can be based on:

- historical precedent with relation to the role or a particular past incumbent;
- an individual's negotiating ability;
- an employer's desire to obtain or retain specific individuals; and
- informal knowledge of other executives' remuneration, including remuneration of EOs in other departments.

This is problematic for a number of reasons:

- It does not necessarily provide value for money.
- It is potentially gender biased. Review analysis showed fewer women in senior EO classifications and lower remuneration for women in the EO-1 and EO-2 bands. The review was advised that, in some areas, women were less likely to prosecute increases to their TRPs than men. A recent Fair Work Commission study showed women were less likely to attempt to negotiate a better salary at their current employer than men.¹¹
- It can lead to unintended long term financial consequences, including establishing precedent in setting and benchmarking remuneration.

Limited prescribed processes or oversight over the classification and remuneration of roles

Under current arrangements, employers have significant discretion in relation to classification and remuneration decisions. There is no requirement for employers to undertake a work value assessment when making classification and remuneration decisions. There is also no requirement to benchmark against comparator roles when setting remuneration.

With the exception that roles paid above the EO-2 range must be approved by the Secretary DPC (on delegation from the Premier), there is limited information available to guide or direct employers regarding how remuneration should be considered and determined.

⁹ Mercer CED Job Evaluation. <http://talent.imercer.com/mercerlearningau/mercer-ced-job-evaluation-504R-14187S.html>. Last accessed on 29 February 2016.

¹⁰ Anecdotal advice from Departments.

¹¹ A recent study found that one third of women had not attempted to attain a better salary at their current employer, compared to a quarter of men. (Fair Work Commission. *Australian Workplace Relations Study. First Findings report: consolidated content from online publication*, viewed 5 March 2016. <https://www.fwc.gov.au/documents/awrs/AWRS-First-Findings.pdf>).

Significant employer discretion in relation to classification and remuneration arrangements has contributed to the development of varied structures and nomenclature across the EO workforce. Analysis of departmental structures has revealed that there is considerable variation across departments in the use of classification, roles, titles and functions of the EO workforce.

While consultees valued the flexibility to structure and title their workforce, some noted that varied structures and titles can be confusing, can undermine attempts to benchmark remuneration, and can limit mobility. It can be difficult for employers and EOs to identify comparison roles across departments because there is not always a clear relationship between EO bands, titles and roles.

Some consultees advised that following recent machinery of government changes there has been some work in departments to improve the consistency in organisational structure and titles, and that this has been helpful.

Arrangements in other Australian jurisdictions

All Australian jurisdictions have an executive classification and remuneration framework, with classification bands. Unlike Victoria's framework, most other jurisdictions have bands that are ordered high to low (e.g. 3 to 1) and the most common terminology for executives is the Senior Executive Service (SES). All jurisdictions have a work-value based framework, with work value points underpinning the bands.

The level of employer discretion provided in the classification and remuneration framework differs between jurisdictions. Victoria has one of the most flexible classification and remuneration frameworks, and provides significant discretion to employers. Many other jurisdictions provide less flexibility for employers, but have clear processes for managing exemptions (e.g. through clear policies concerning recruitment and retention payments).

Some jurisdictions have set relationships between classifications, titles and roles, to assist with mobility and with remuneration benchmarking.

Table 5 compares classification and remuneration frameworks across jurisdictions.

Table 5: Classification and remuneration frameworks across Australia

	VIC	APS	NSW	QLD	WA	SA	TAS	NT
Naming								
Secretaries called	Secretary			Chief Executive/Chief Executive Officer				
Subordinates called ¹²	EO	SES	PSSE	SES	Mixed	SAES	SES	ECO
Set relationship between classification, title and role	x	✓	✓	x	x	x	x	x
Band framework								
Secretary band	x	✓	✓	✓	✓	x	✓	x/✓ ¹³
Maximum number of bands (below Secretary)	3	3-4	3	4	4	2	4	5
Highest band (below Secretary)	1	3	3	4	2	2	4	2-5 ¹³
Work value determines executive classification	x ¹⁴	✓	✓ ¹⁵	✓	✓	✓	✓	✓
Band determines remuneration	✓	x ¹⁶	✓	✓	✓	✓	✓	✓
Process for setting remuneration upon appointment								
Initial remuneration determined by	Employer		Work value	Work value	Rem. panel ¹⁷	Work value	N/A – start at base	
Discretion available to employer	\$150K ¹⁸	Total	9% - 13%	10%	x	20% or \$25K	No discretion (start at base)	
Formal recruitment and retention payment policy framework ¹⁹	x	x	x	✓	✓	✓	x ²⁰	x

¹² PSSE is Public Service Senior Executives; WA has two executive groups (the SES and the ‘Special Division’); SAES is the South Australian Executive Service; ECO stands for Executive Contract Officer.

¹³ NT has a six band framework and the roles within bands can vary: Chief Executives can be classified at any level from ECO-3 to ECO-6; subordinates can be classified at any level from ECO-1 to ECO-5.

¹⁴ High level guidance exists however work value assessments are seldom used.

¹⁵ Classification is also aligned with title and role in the organisational structure.

¹⁶ There is no set remuneration range in the APS; remuneration is set by the employer.

¹⁷ Initial remuneration is determined by the Salaries and Allowances Tribunal or the WA Industrial Relations Commission, depending on the nature of executive employment

¹⁸ This is the remuneration span between base EO-3 remuneration and maximum EO-2 remuneration.

¹⁹ Some jurisdictions have formal policy frameworks for determining recruitment and retention payments; for some jurisdictions these payments fall under the scope of the remuneration panel; and other jurisdictions have no policy frameworks.

²⁰ Recruitment and retention payments are specified in an employment direction rather than a policy framework. ²¹ Three months as a redeployee and a targeted separation package of up to 25 weeks pay.

Proposed arrangements

The issues regarding the current framework extend beyond those that can be addressed through minor amendment to the existing framework. While remuneration overlap between bands can be addressed relatively easily, issues relating to the work value and role definitions are more fundamental. Accordingly, the review recommends:

- the development of a new EO classification and remuneration framework;
- VPS agencies to be required to classify and remunerate EOs on the basis of a work value assessment against this framework; and
- some employer discretion when setting individual EO remuneration, accompanied by a recruitment and retention payment framework to support higher remuneration (where required).

Proposed model for employment of EOs

It is proposed that the new classification and remuneration framework is based on the following principles:

- **Work value as the principal determinant of classification and resulting remuneration ranges.** A work value assessment of EO roles should be the basis of classification and should inform remuneration decisions.
- **Appropriate span of work value points.** The work value points span should adequately reflect the requirements of VPS EO roles. Further, the work value tool should be robust, but administratively efficient, to support use by employers.
- **Mutually exclusive bands.** Bands should have distinct remuneration and work value ranges and reflect clear differences in the work conducted by individuals in each classification group.
- **Employer discretion.** Employers should have discretion to set individual remuneration while balancing the need for remuneration to closely relate to work value, and consistency in remuneration decisions.
- **Transparent and justified exemptions.** Remuneration outside of the band should be supported when required (e.g. in response to market trends). The basis of higher remuneration should be transparent and justified. There should be a common approach to approving exemptions.

Figure 6 is an indicative representation of the proposed classification and remuneration framework. Figure 7 outlines the steps in the proposed framework, and an example of a role classification and remuneration process. The indicative classification and remuneration framework:

- uses the minimum proposed EO remuneration (including proposed new base EO remuneration value of \$175,000) and an indicative maximum of \$432,000 with the maximum rounded for ease of division; and
- divides the bands equally across this remuneration span.

This range of points and division of remuneration is not necessarily representative of those which would be adopted in any final model. The elements of the final model should be developed on the basis of a thorough assessment of a spectrum of current Victorian EO roles. Figures are therefore indicative only and are not intended to limit the development of proposed models.

Additional features

Additional changes to support the new classification and remuneration framework include:

- standard titles for core similar roles, to support consistency, mobility and benchmarking;
- work contribution streams, to delineate role types such as 'policy', 'regulatory' and 'delivery' roles;
- monitoring and reporting of EO workforce classification and remuneration trends to VSB by the proposed remuneration panel Secretariat; and
- removal of EO-1 classification approval requirements to provide greater flexibility to employers to classify roles as appropriate.

Figure 6: Indicative representation of the proposed new EO classification and remuneration framework

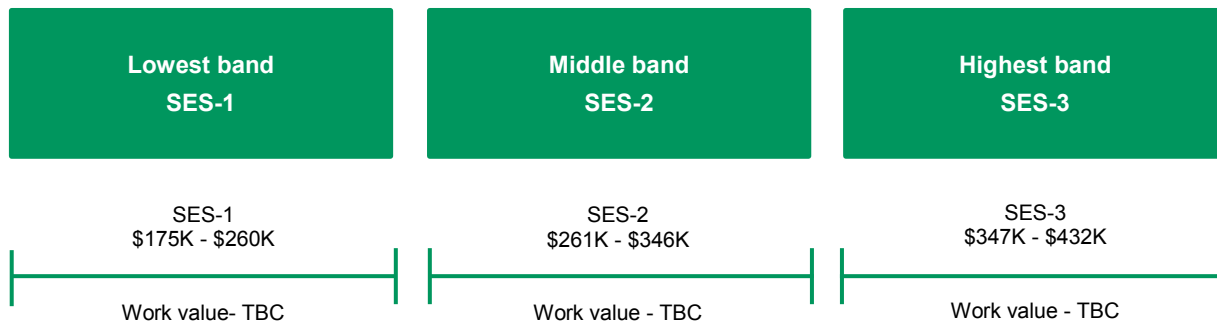
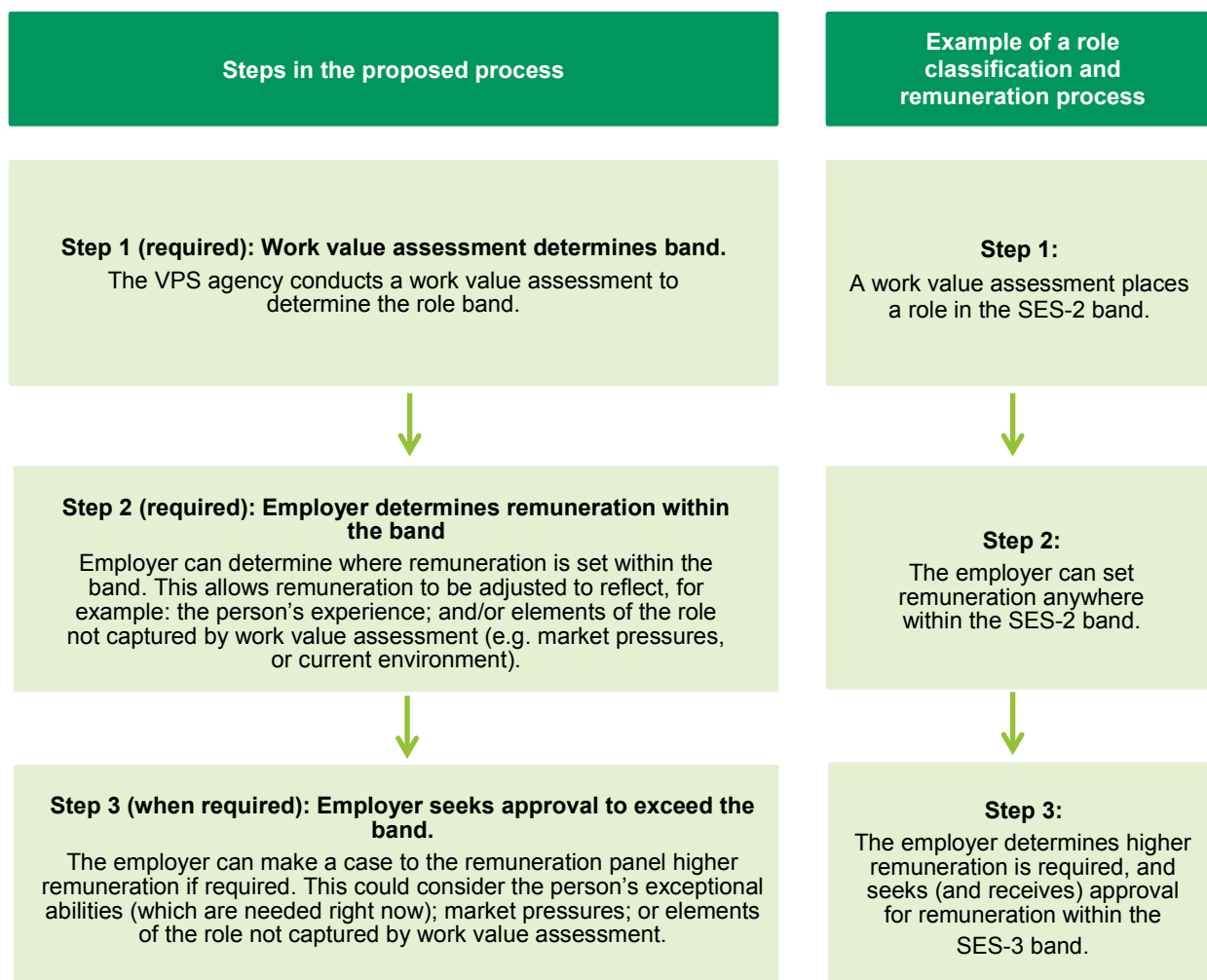


Figure 7: Proposed process for the proposed new EO classification and remuneration framework



4. THE VPS EO EMPLOYMENT OFFER



The Employment Offer

Primary recommendation 3

That Government agrees to adopt a new VPS EO employment offer with:

- 3.1** an increase to the base of the EO remuneration range from \$152,560 to \$175,000;
- 3.2** fixed term contracts with no threshold on contract duration;
- 3.3** improved 'at will' termination provisions (from four months to nine months);
- 3.4** removal of Right of Return (prospectively, grandfathered for EOs with current entitlement); and
- 3.5** removal of the bonus provision with compensation for EOs who agree to the removal of bonuses from their contract.

Supporting recommendation 3A

That Government agrees to:

- 3A.1** maintain the proposed remuneration differential between the top of VPS-6 remuneration and base EO remuneration; and
- 3A.2** align VPS and EO annual adjustments to avoid salary overlap in the future.

Key findings

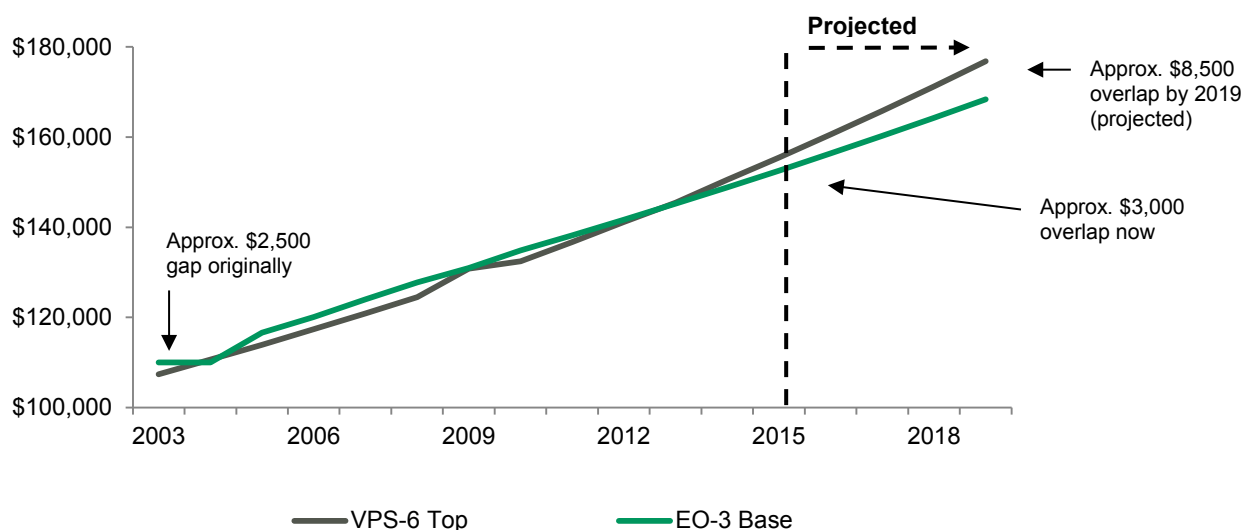
The current EO employment offer is not competitive with other jurisdictions and some elements are problematic. Key issues and implications of the current employment arrangements are outlined below.

Base EO remuneration is too low

The base of the EO-3 remuneration range is too low. It overlaps with the VPS-6 range, which acts as a disincentive to VPS staff moving into the EO workforce. This overlap has occurred as a consequence of historically higher annual increase for VPS employees, and will worsen over time unless:

- the base of the EO remuneration range is increased to create a clear difference between non-executive and EO remuneration ranges; and
- the practice of differential annual CPI remuneration increases for non-executive and EO staff is altered (see Figure 8).

Figure 8: Relationship between VPS-6 and EO-3 remuneration over time, 2003 to 2018



The ‘at will’ termination provision is too short

The four month at will termination clause in the standard contract is too short. The review was advised that it is a disincentive to EOs taking positions in Victoria, and has resulted in executives from other jurisdictions not seeking or taking up positions in the Victorian public sector.

The termination of contracts in line with this provision (for example, in instances of changes in Government priorities) has been noted in some industries and deters private sector executives from taking up employment in the public sector.

The four month at will termination provision does not provide a fair period of time for an EO to transition to new arrangements. Recruitment firms advised that it can take up to 12 months for an executive to secure another equivalent role.

In addition, the review was advised that the at will termination provision is being used to terminate the contracts of underperforming EOs. This was not the original intention of a ‘no fault’ or ‘at will’ provision. Rather, ‘underperformance’ provisions were intended for this purpose.

Right of Return is inequitable and undermines mobility

The review was advised of the following problems with RoR:

- **It undermines mobility.** VPS EOs lose RoR if they move (even temporarily) into public entities, other jurisdictions, the non-profit sector, or the private sector.
- **It is costly.** Even if individuals who access RoR are declared excess to requirements immediately, RoR can be used to access the larger termination package available to VPS employees upon redeployment.²¹
- **It acts as a right to promotion.** RoR results in a ‘return’ to a STS classification nominally higher than a VPS-6. It is more likely that EOs were VPS-6 staff rather than STS staff prior to becoming EOs. As a result, RoR enables these EOs to access a promotion relative to their previous VPS position upon ‘return’ to the non EO workforce.
- **It is being misused.** RoR is being used by employers when individuals are a bad ‘fit’ for an EO role; when there are performance issues; and to maintain an appearance of having low EO numbers, while

²¹ Three months as a redeployee and a targeted separation package of up to 25 weeks pay.

retaining highly paid staff. RoR is also being used to maximise superannuation on defined benefits schemes prior to retirement.²²

Current bonus arrangements do not drive performance

While the VPS EO contract outlines that EOs can earn bonuses of up to 17 per cent, Government policy has meant that, in practice, bonuses are relatively small. In 2014-15, the average bonus for a VPS departmental EO was five per cent of TRP or \$9,500.

Current bonus arrangements do not drive performance for VPS EOs. This is due to a range of factors including:

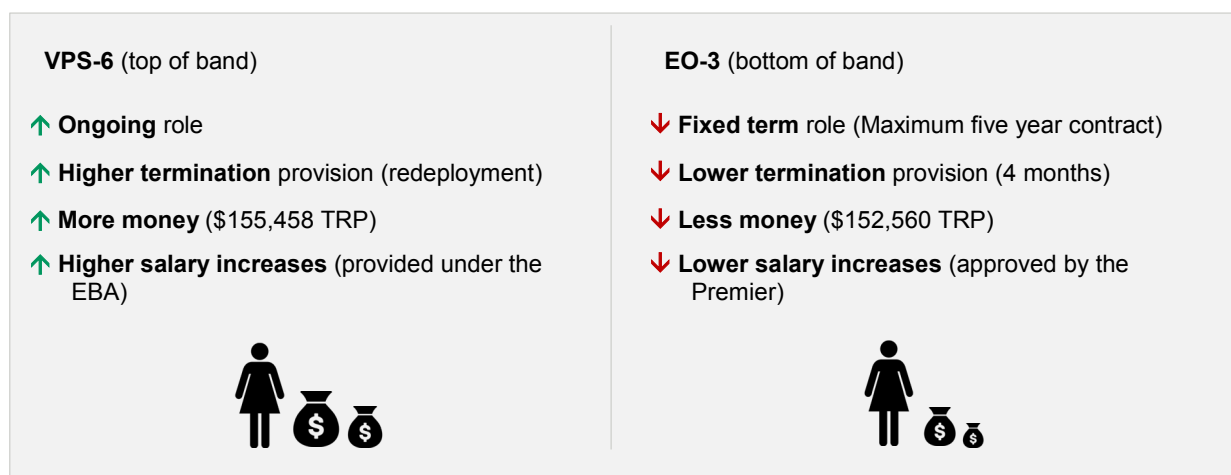
- their small size – bonus amounts are small as a proportion of total remuneration and thus have limited value in rewarding achievement;
- delays incurred in bonus provision which divorce them from the associated performance – the review was advised that, due to delays in determining departmental bonus pools, bonus payments may not be passed on to EOs for up to a year after the end of financial year to which they relate; and
- other motivators – EOs place much more value on other aspects of their careers, such as professional development and opportunities to contribute to the Victorian community.

Unattractive and uncompetitive offer

When other differences in employment conditions are taken into account, the offer does not compare well to the non-executive workforce or to other jurisdictions.

As shown in Figure 9, VPS-6 staff can be significantly better off than EO-3 staff. Analysis showed that approximately 30 per cent (1,152) of VPS-6 staff were paid at or above the base of the EO-3 range at 30 June 2015.


Figure 9: VPS-6 and EO-3 employment offerings, July 2015



The review found that Victoria's offer is not competitive with other jurisdictions and is significantly less generous than the NSW offer (see Figure 10).

²² The review understands that superannuable salary for defined benefits scheme purposes is 70 per cent of TRP. For VPS staff superannuable salary is 100 per cent of salary.

Figure 10: NSW and Victorian executive offerings, July 2015



NSW	VIC
↑ Open-ended contract	↓ Fixed term role (maximum 5 year contract)
↑ Higher pay (base TRP \$174,500)	↓ Lower pay (base TRP \$152,560)
↑ Higher termination provision (9.5 months)	↓ Lower termination provision (4 months)
↓ No bonus	↑ Bonus (proposing removal)
↓ No Right of Return	↑ Right of Return (proposing removal)
↓ No car*	↑ Car (optional with salary sacrifice, estimated \$5K value)

* The policy is under review. There is no automatic entitlement to a car; provision is on a case by case basis.

Legislated maximum five year contracts may not best attract and support an EO workforce that stewards the public sector

The review was presented with mixed views on the merits of fixed term contracts versus ongoing employment for EOs. The review was advised that fixed term employment arrangements can drive performance by ‘keeping EOs on their toes’. In addition, some consultees liked fixed term arrangements on the basis that contract end assists employers to manage their EO workforce, by providing:

- a natural point for the employer to reflect on the EO’s performance and role in the organisation; and
- a less adversarial way of removing an EO than contract termination.

Other consultees contended that fixed term employment is being used to manage out poor performers, and that performance should be managed throughout the life of the contract (rather than just at the end). It was also argued that fixed term contracts can drive a focus on short term, rather than longer term priorities. It was suggested that an EO workforce that is employed on an ongoing basis may better support the development of a core, experienced and professional VPS EO workforce that has responsibilities for stewarding the public sector.

Some other Australian jurisdictions have ongoing employment for executives and have articulated that this was introduced to support:

- better and more timely performance management;
- greater mobility of the EO workforce; and
- a focus on stewardship of the public service, with executives responsible for delivering long term objectives and outcomes.

Given the mixed views presented on this employment matter, the review recommends the retention of fixed term arrangements, with the five year threshold on the contract term removed from legislation. Employment contracts would not be ongoing, but may be longer than five years. This would eliminate barriers to providing longer term employment to EOs, while providing employers with discretion and flexibility to use shorter term contracts when needed.

Government may wish to consider the future adoption of ongoing employment arrangements pending further work on performance management processes to directly tackle underperformance rather than rely on non-renewal of contract.

Arrangements in other Australian jurisdictions and the private sector

Other jurisdictions

Employment arrangements differ markedly across Australia, including in relation to who employs executives, the nature of their employment, the total employment offer, and the composition of the remuneration package.

There are some key elements where Victoria differed from other jurisdictions regarding non-Secretary executives:

- RoR and bonus provisions are rare;
- Victoria has a relatively low base EO remuneration offer; and
- Victoria has a short 'at will' termination clause.

Arrangements across jurisdictions are summarised in Table 6.

Table 6: Employment offer across Australia for subordinate executives

	VIC	APS	NSW	QLD	WA	SA	TAS	NT
Nature of employment								
Employed by Secretary?	✓	✗ State	✗ State	✓	✓	✓	✗ Premier	✗ ²³ State
Appointed to a position?	✓	✗ Band	✗ Band	✓	✓	✓	✓	✓
Subordinate executive offer								
5 year term?	✓	Ongoing	Ongoing	✓	✓	✓	✓	✓ ²⁴
At will termination ²⁵	4 months	No provision ²⁶	9.5 months ²⁷	1-12 months	1-12 months	4-20 months	4-12 months	6-12 months
Probation?	✗	Possible ²⁸	3 months ²⁹	✗	✗	✗	✗	✗
RoR?	✓	✗	✗	✗	✓	✗	✓	✗
Bonuses?	✓	Vary ³⁰	✗	✗	✗	✗	✗	✗
Composition of the subordinate remuneration package								
Structure ³¹	TRP	TRP	TRP	TRP	TRP	TRP	Salary+	TRP
Base value (TRP equivalent)	\$152,560	\$166,762	\$174,500	\$152,372	\$158,063	\$156,798	\$148,543	\$201,020
Super rate	9.5%	15.4%	9.5%	12.75% ³²	9.5%	9.5%	9.5%	9.5%
Fleet car?	✓	✗/✓ ³³	✗ ³⁴	✗	✓	✓	✓	✓
Parking?	✓	✗	✓ ³⁵	✗	✓	✓	✓	✓

²³ The Commissioner for Public Employment is the employer.

²⁴ The maximum term is five years under legislation, four years under policy.

²⁵ Other jurisdictions noted that it was rare for executives to receive less than six months minimum no fault termination.

²⁶ A framework exists for the Commissioner to approve termination based on length of service and age.

²⁷ Executives on fixed term contracts also receive 9.5 months, or contract residual, whichever is less.

²⁸ This is at the discretion of each Department Secretary.

²⁹ The employer determines whether the executive is subject to a probation period and the length of that period. The probation period cannot exceed 3 months and is only applicable to the first period of ongoing employment in the NSW public service.

³⁰ The provision of bonuses is dependent on the agency.

³¹ This denotes the inclusion of salary, super and other allowances in the remuneration package.

³² The employer contribution is tied to the employee contribution (two-five per cent). This is the maximum and most common amount.

³³ Executives may have access to a vehicle allowance or a fleet car.

³⁴ The policy is under review. There is no automatic entitlement to a car; provision is on a case by case basis.

³⁵ Parking is available where the vehicle is also used for work.

Proposed arrangements

The review recommends the adoption of a new VPS EO employment offer which amends problematic components and provides greater competitiveness with other jurisdictions.

The key elements of the recommended new VPS EO employment offer are as follows:

- **Higher base EO remuneration.** The base of the EO remuneration range is increased to \$175,000. This is intended to support movement of non-executive VPS staff into EO roles and increase competitiveness with other jurisdictions.

The review also recommends that measures are put in place to maintain this differential between the top of the VPS-6 remuneration range and the base of the EO remuneration range. Under such an arrangement, the minimum and maximum of each remuneration band would be adjusted annually at the same rate as any salary increases specified in the enterprise agreement for non-executive employees.

- **Removal of the bonus provision.** Removal of the bonus provision from an EO's contract prior to cessation of the contract requires consent from the EO. It is therefore recommended that compensation be offered to support agreement by the EO to this change.
- **No change to maximum EO remuneration.** The review did not hear that an increase to the maximum of the EO remuneration was required. There may be exceptional circumstances which may require remuneration above the set maximum. However these could be accommodated through the proposed recruitment and retention payments framework.
- **Fixed term contracts with no threshold on contract duration.** It is proposed that the current legislated five year maximum term for EO contracts be removed. Employers would have the discretion to determine the length of fixed term contracts for roles within their agency.
- **Extended termination at will provisions.** It is proposed that the at will termination provision (currently four months) be increased to nine months. This is intended to improve the incentive for non-executive staff to take on EO roles without RoR and to improve competitiveness with other jurisdictions.

Employers can currently provide notice or pay in lieu thereof for this provision. It is proposed that this discretion remains. However, implementation of this new provision would need to manage financial risks to the State (in particular if an EO is appointed to another EO position shortly after receiving the termination payout). It is proposed that the VPSC work with the Department of Treasury and Finance (DTF) on an appropriate implementation model to manage these risks.

- **Removal of RoR.** It is proposed that RoR is removed from the PAA prospectively, grandfathered for existing eligible EOs. This would ensure individuals who have taken EO roles on the basis of access to RoR would not be disadvantaged. The removal of RoR would not prevent employers from offering a non-executive role to former EO staff as per normal workforce management processes.

5. PUBLIC SECTOR EO OVERSIGHT AND GOVERNANCE



Public Sector EO Oversight and Governance

Primary recommendation 4

That Government agrees to:

- 4.1** establish a public sector EO remuneration panel to approve remuneration for specific classes of public sector EOs (e.g. CEOs of public entities) and approve exemptions to the VPS EO framework. The panel should be supported by a VPSC Secretariat which should also support VSB with broader oversight of the VPS EO workforce (including data and trend analysis); and
- 4.2** remove the cap on VPS EO numbers and increase VPS reporting requirements. New reporting requirements should include all employees paid above the VPS-6 salary range (including Specialists and contractors).

Supporting recommendation 4A

That Government agrees to update Specialist classifications, specifically to:

- 4A.1** review the existing definition of the STS classification; and
- 4A.2** create definitions for the Senior Medical Adviser, Senior Regulatory Analyst and Principal Scientist classifications.

Supporting recommendation 4B

That Government agrees to remove the cap on the STS workforce.

Key findings

Current EO workforce governance and oversight arrangements are fragmented and do not support a systems view on EO remuneration or EO workforce trends across the public sector. There is a disproportionate focus on specific VPS EO employment policies which have little bearing on a high performing EO workforce. Further, the oversight arrangements that are in place have led to perverse and unintended outcomes. Key issues with the current employment arrangements are outlined below.

Division in responsibilities risks distortions and discrepancies

The review notes that there are some benefits to current oversight and governance arrangements, in particular the operation of GSERP, which provides oversight of public sector EO remuneration decisions.

However, the division of DPC overseeing VPS EO remuneration and GSERP overseeing public entity EO remuneration is problematic because remuneration decisions are made in isolation from one another. This risks problematic outcomes, including discrepancies in remuneration for similar roles in the VPS and in public entities.

The cap on the VPS EO workforce is not effective in controlling staff costs

While the VPS EO cap has been relatively successful at constraining the numbers of EOs, it has led to growth in the numbers of other highly paid staff. Between 2003 and 2015, EO numbers grew by 12 per cent while the number of Specialists grew by 525 per cent. The growth predominantly occurred in the number of Senior Technical Specialists rather than the other Specialist classifications (Principal Scientists, Senior medical Advisers and Senior Regulatory Analysts).

Growth of this 'quasi-executive' workforce is problematic because:

- this workforce can have higher employment costs than EOs, particularly if Enterprise Bargaining Agreement (EBA) increases are relatively large, or if multiple VPS staff are used in place of one EO; and

- the use of contractors in EO-like roles increases the risk of non-compliance with the *Fair Work Act 2009*, and unintended financial liabilities for the State.

Some employers also noted that the cap reduced flexibility to offer part time EO employment, because the cap relates to roles, not Full Time Equivalent (FTE) staff.

Limited oversight of EO workforce trends

The review has collected detailed information in relation to the size, diversity, composition and remuneration of the EO workforce. While much of this data is collected by the VPSC annually, there has not been regular systematic analysis and consideration of EO workforce trends.

There has been limited focus, oversight and governance regarding broader workforce trends, such as:

- remuneration trends, including how VPS EOs are classified and remunerated across government;
- performance outcomes, including the extent to which performance plans and contract schedules are completed; and
- demographic trends, including gender and diversity of the EO workforce.

This has contributed to the range of earlier findings, including the disparate classification and remuneration outcomes across government departments. Further, it limits understanding of the impacts and outcomes of the EO employment and remuneration framework. Consideration of workforce trends is critical to ensuring policies and procedures for the employment and remuneration of the EO workforce remain current.

Arrangements in other Australian jurisdictions

Approaches to controlling executive numbers vary. Though many jurisdictions have caps, the specific aspects of the cap may differ. Caps can:

- be budgetary or headcount based; and
- relate only to executives or to the workforce as a whole.

Arrangements for remuneration oversight and governance vary across jurisdictions:

- the APS, NSW, WA and the NT all have panels which oversee executive remuneration;
- in QLD and SA the Public Service Commissioner (or equivalent) has discretion to determine remuneration outside the band; and
- in TAS the Head of the State Service has the discretion to determine remuneration outside the band, up to a set remuneration level for each band. Remuneration above this level requires Premier approval.

A comparison of arrangements across jurisdictions is provided in Table 7.

Table 7: Oversight and governance practice across Australia

	VIC	APS	NSW	QLD	WA	SA	TAS	NT
Control of executive numbers								
Budget cap	x	✓ All roles	✓ All roles	x	x	✓ All roles	x	x
Headcount cap	✓ EOs	✓ All roles	x	✓ SES	x	✓ All roles	x	✓ ECOs
Executive remuneration oversight and governance								
Remuneration panel ³⁶	x	✓	✓	x	✓	x	x	✓
Legislative authority	N/A	✓	✓	N/A	✓	N/A	N/A	x ³⁷
Covers Secretaries		✓	✓		✓			✓
Covers subordinate executives		✓/x ³⁸	✓		✓			✓
Determines annual adjustments		x	✓ ³⁹		✓			✓
Sets remuneration for bands		✓	✓		✓			✓
Approves exemptions (e.g. remuneration outside of bands and/or work value)		x ⁴⁰	✓		x			✓
Members		3 ⁴¹	3 ⁴²		3 ⁴³			3
Secretariat numbers (approximate)		6	Vary ⁴⁴		4			7-8 ⁴⁵

Proposed arrangements

Based on the analysis above, the review recommends the establishment of new governance arrangements to better support a ‘systems’ perspective on EO remuneration decisions, including exemptions, across the VPS and public entities and oversight of public sector EO remuneration trends.

The review also recommends removal of the VPS EO cap, accompanied by an increase in reporting on VPS EO workforce trends.

New governance arrangements

The review recommends establishing a single remuneration panel with defined decision making powers for public sector EO remuneration, restricted by Government policies (e.g. wages policy; similar to NSW

³⁶ The APS has the Remuneration Tribunal; NSW has the Statutory and Other Officers Remuneration Tribunal (SOORT); WA has the Salary and Allowances Tribunal (SAT) and NT has the Executive Remuneration Review Panel (ERRP).

³⁷ The ERRP was created by Cabinet.

³⁸ The Remuneration Tribunal may make determinations for the Senior Executive Service in special circumstances.

³⁹ SOORT determinations are subject to NSW Government Wages Policy.

⁴⁰ The Remuneration Tribunal determines the classification structure and remuneration of Department Secretaries.

⁴¹ There are currently two members of the Remuneration Tribunal.

⁴² The ‘tribunal’ consists of one 1 member who is supported by 2 ‘assessors’.

⁴³ Membership cannot include an individual who is under the scope of the SAT.

⁴⁴ The SOORT is supported by Public Service Commission staff, as required.

⁴⁵ The ERRP is supported by staff of the Office of the Commissioner for Public Employment.

remuneration tribunal). This panel would be supported by a Secretariat which combines the existing advisory and support functions of DPC and GSERP's Secretariat.

Composition of panel

The review recommends that the panel:

- be comprised of five members, with three members providing a quorum. Members should be a mix of current VPS or public entity leaders such as Secretaries, Deputy Secretaries and CEOs of public entities and external members with expertise in public administration, executive employment and remuneration, or governance, including former agency leaders from Victoria and other jurisdictions and the private sector.
- be established in legislation (e.g. the PAA).

Functions of the panel and Secretariat

The review recommends the role of the public sector EO remuneration panel be to:

- approve remuneration for specified EOs (e.g. whose remuneration is currently approved by GSERP);
- approve remuneration exemptions (e.g. recruitment and retention payments);
- following the (proposed) industry segment reviews, oversee implementation of any changes in arrangements, including approving any exemptions to these arrangements;
- determine the annual adjustment to public sector EO remuneration, within wages policy;
- make minor technical amendments to EO employment and remuneration policies and tools (e.g. the EO contract) to support timely updates; and
- advise Government on broader amendments to EO policy arrangements (e.g. amendments to the band framework).

Consideration could also be given to a broader role for the panel, for example, to include Secretary remuneration and making recommendations on remuneration decisions made by the Governor In Council.

It is proposed that the Premier would retain responsibility for the policy framework for VPS and public entity EO employment and remuneration, and be consulted in relation to significant remuneration exemptions.

It is recommended that the panel Secretariat be responsible for supporting the panel, providing regular reports to VSB on EO employment and remuneration trends, including in relation to like roles, and overseeing departmental reporting to VSB on EO employment and remuneration trends.

Removal of the VPS EO cap

Proposed new reporting arrangements

The review recommends two new forms of reporting in place of an EO cap:

- **increased public reporting.** The review recommends new VPS reporting requirements regarding all employees paid above the VPS-6 salary range. These reporting requirements would be developed in consultation with DTF. They could be effected through changes to the Minister for Finance's Financial Reporting Directions.
- **increased internal benchmarking.** Annual reports to VSB on remuneration and numbers of staff paid above the VPS-6 remuneration range.

Treatment of Specialist positions

The review notes that removal of the cap may not be sufficient in itself to address the continued employment of a 'quasi-executive' Specialist workforce in lieu of EOs. Therefore, the following additional measures are also proposed to support removal of the cap:

- clarification to VPS employers on the correct use of Specialist positions;
- a review of the existing definition of the STS classification; and
- the creation of definitions for the Senior Medical Adviser, Senior Regulatory Analyst and Principal Scientist classifications.

The review also recommends that the cap on the STS workforce be removed. This is recommended given findings that the EO cap encourages workforce workarounds and is not necessarily effective in controlling costs. This would allow Specialists to be used as required.

6. PERFORMANCE MANAGEMENT



Performance Management

Primary recommendation 5

That Government agrees to:

- 5.1 require, at a minimum, VPS employers to complete employee contract schedules and EOs to complete performance plans;
- 5.2 review and strengthen the 'underperformance clause' in the standard EO contract to improve performance management processes;
- 5.3 update the *Victorian Public Service Executive Employment Handbook* to provide detailed guidance on performance management processes; and
- 5.4 the VPSC in consultation with VSB developing a performance framework that enables benchmarking of EO performance across agencies.

Key findings

There are ad-hoc and inconsistent approaches to EO performance management across the VPS. This is particularly problematic when coupled with other findings presented in this report regarding a lack of clarity around expectations of different EO classifications and roles. Key issues with the current performance management arrangements are outlined below.

Inconsistent use of current EO performance management tools

While some VPS employers have well developed internal processes to set, measure and benchmark EO performance, others may not even adhere to minimum requirements. For example, a 2015 report by the Victorian Auditor-General into the Department of Education and Training (DET) indicated that over a number of years, bonuses had been provided to many EOs without proof of a performance plan.⁴⁶

Use of 'at will' terminations and contract expiry in lieu of performance management

As noted previously, the current EO contract has an 'underperformance clause' which allows termination with four weeks notice in instances where 'termination is based on a significant failure by the EO in fulfilling his or her duties and obligations under [the] contract'.

However, if performance expectations are not documented, it is difficult to use this clause because there is no sound basis on which to terminate the EO's contract. There is a tendency to use the expiry of a contract or the 'at will' termination provision to end the employment of an underperforming EO. While using expiration of the contract or the at will termination provision may be easier and less confrontational, these mechanisms:

- provide little support for the EO to improve and develop their skills over the life of the contract;
- may result in an inefficient use of Government funds by continuing to remunerate under-performing and/or ineffective EOs;
- risks under-delivering on Government's priorities; and
- may not send the right message to the wider VPS workforce regarding performance.

⁴⁶ Victorian Auditor-General's Office, *Department of Education & Training: Strategic Planning*, October 2015, p.13.

Focus on individual and short term priorities

The review found that the combination of current performance management arrangements and current employment arrangements (including fixed term contract provisions and bonus arrangements) tend to support a focus on individual performance within the contract term, compared with collaborative achievement and longer term public service stewardship.

Existing fixed term contract arrangements and bonus provisions do not necessarily motivate EOs or their employers to commit to performance expectations which extend beyond the contract term. Furthermore, current arrangements do not encourage EOs to commit to performance expectations which require inputs which are beyond the direct control of the EO or outputs scheduled beyond the contract term.

Arrangements in other Australian jurisdictions and the private sector

The private sector

Some private sector organisations (e.g. Deloitte, Accenture, Adobe, Microsoft and National Australia Bank) have moved away from annual, formal performance appraisal in favour of regular, ongoing performance conversations.⁴⁷

This change is based on a view that traditional performance management approaches (typically formal annual reviews, ratings and rankings) are not effective in driving performance, are administratively burdensome, add unjustified complexity, can have a negative impact on engagement and self-confidence, and are past (rather than future) focused.⁴⁸

Other jurisdictions

While practice in relation to EO performance management varies between jurisdictions, there are some common characteristics, such as:

- devolved models, with responsibility for EO performance management vested in individual agencies;
- minimum requirements relating to the essential elements of both the performance management process and the content of performance agreements; and
- a link to whole of government priorities.

Victoria is the only jurisdiction that offers bonuses across its EO workforce to incentivise performance. In comparison, a number of other jurisdictions use performance reviews to determine eligibility for remuneration increases (within the band) and non-financial incentives such as professional development, on a formal or informal basis. Table 8 provides a summary comparison of key features of performance management arrangements in other jurisdictions.

⁴⁷ Financial Review 2015, 'NAB to scrap formal performance review', viewed 27 April 2016, <<http://www.afr.com/news/nab-to-scrap-formal-performance-review-20150729-gin5e1>>.

⁴⁸ J Windust 2015, 'Redesigning Performance Management-Key Trends of 2015', viewed 26 April 2016, <<http://www.cognology.com.au/redesigning-performance-management-key-trends-of-2015/>>.

Table 8: Features of performance management arrangements across Australia

	VIC	APS	NSW	QLD	WA	SA	TAS	NT
Responsibility for subordinate executive performance management devolved to agencies	✓	✓	✓	✓	✓	✓	✓	✓
Performance plans of subordinate executives must address whole of government priorities	✗	✗		✓	✓	✗	✓	✗
Performance review outcomes used to determine remuneration outcomes	✓ Bonuses	✓ Remuneration increase			✗	✓ Remuneration increase		

Proposed arrangements

Changes required to support effective EO performance management

Mandated use of existing tools

At a minimum, employers and EOs should be required to complete performance plans and contract schedules. The performance plan and the contract schedule should:

- provide a clear statement of the EO’s roles and responsibilities;
- outline performance expectations which align with the roles and responsibilities; and
- where possible, stipulate measurable key performance indicators on which the performance of the EO can be assessed.

These formal performance management processes should be complemented by more regular, informal and formal performance conversations.

In addition, while the review recommends that the EO remuneration bands be adjusted annually in accordance with any salary increases of the non-executive employees, the review recommends that individual remuneration only be increased if the EO and employer have completed an annual performance plan and performance expectations have been met.

Performance expectations

EO performance management would be supported by the adoption of clear performance expectations for EOs in individual performance plans. These performance expectations should be:

- related to objectives (e.g. Government priorities, organisational strategy, Ministerial statements of expectations, Budget Paper 3 performance indicators);
- based on the requirements of a position, not an individual;
- aligned to the work value of a role;

- specific, measurable, agreed, realistic and timely (SMART); and
- expressed in terms of quantity, quality, timeliness, cost or outcomes.

The achievement of performance expectations should be measured using documented evidence.

Revision of existing tools

The 'underperformance clause' in the standard EO contract requires revision to ensure that it is fit for purpose. Ideally it should be linked to a complete and 'live' document. As noted earlier, the underperformance clause is currently linked to the contract schedule, which is not always complete. Even if this schedule were complete, it is likely to be static in nature and therefore may not be sufficient.

To further encourage VPS employers to actively manage underperformance, the review proposes that existing guidance on managing underperformance as outlined in the *Victorian Public Service Executive Handbook* be updated to provide more guidance on performance management processes. This will include clearer definitions of key terms such as 'significant failure', more guidance on what constitutes 'underperformance' and steps and timelines for management of underperformance.

The review has proposed an extension to the 'at-will' termination provisions for EOs from four months to nine months. This may cause employers to give more consideration to using existing underperformance provisions rather than 'at-will' termination.

Other relevant reviews

Victorian Leadership Development Program

Following the Premier's request in July 2015 for the VPSC to conduct the Review of Victoria's Executive Officer Employment and Remuneration Framework, the VSB asked the VPSC to undertake a comprehensive review of the VLDP. Ms Carmel McGregor PSM led the review. The review outlines a new model to strengthen future leadership development in the Victorian public sector, with implementation to commence in December 2016. A summary is below.

The Victorian public sector needs a high performing, agile, diverse and collaborative EO workforce which can deliver sustainable, high-quality outcomes for Victoria now and into the future. A new model for leadership development is a central element to achieving this vision. The review's recommended model is founded on the use of strong data and analytics, including regular, empirical assessment of leaders, to inform leadership development and talent management decisions at a whole of government level. The new model will deliver relevant, effective development interventions that are tailored to the needs of the sector and the individual, with experiential learning playing a central role. Leaders with the highest potential will be placed in a talent pool and actively managed by VSB to meet the needs of the public sector and deliver on the Government's priorities for Victoria.

Victorian Public Sector Leadership Capability Framework

Following the Premier's request in July 2015 for the VPSC to conduct this review, the VSB asked the VPSC to develop a capability framework for EOs. Prior to the development of this framework, Victoria did not have an EO capability framework.

The Framework presents a comprehensive picture of the desired senior leadership capabilities across the public sector. It articulates capabilities required for success in an increasingly changeable and complex environment, while capturing the current public sector context and fostering a strong leadership culture. The Framework comprises four domains of leadership that capture capabilities required to be proficient, and behaviours required to be effective. These domains are:

- stewardship: navigate and position organisations for the future;
- people: collaborate, foster talent and build diverse capable organisations;
- performance: drive organisations and systems to deliver better results; and

- leader mindsets: exemplify behaviours that engage, inspire and motivate.

The Framework will be used to develop assessment and diagnostic tools that will underpin the new model for leadership development proposed by the VPSC review of the VLDP.

7. OTHER TERMS OF REFERENCE, FINDINGS AND RECOMMENDATIONS



Other recommendations

That Government agrees to:

- 7 consider increasing Secretary remuneration to reflect the size and complexity of the role, and to better align with comparable jurisdictions;
- 8 express the EO remuneration offer as including salary and any other benefits plus superannuation (rather than a TRP); and
- 9 revise VPS and public entity EO standard contracts to reflect current employment standards and principles (including an increased focus on integrity); and to reflect broader amendments to the EO employment and remuneration framework arising from this review.

Appointment of EOs to band or position

The review does not recommend any changes in relation to the appointment of EOs to positions (as opposed to bands). The review was advised that, on balance, whether appointment is to band (e.g. EO-2) or position (e.g. Deputy Secretary, Transport) has little bearing on enabling mobility.

Rather, mobility is more likely to depend on:

- the nature of the employer-employee relationship, rather than the type of appointment (i.e. contracts with individual employers (e.g. Secretaries) vs. contracts with Secretaries on explicit behalf of the Crown); and
- cultural support (e.g. support from senior leaders).

The review recommends that mobility be enhanced through improved 'back of house' efficiencies in the employment of EOs across government and the public sector. This may require agreement to protocols by VSB and/or amendments to the standard VPS contract.

The review notes that other recommended changes would assist mobility. Specifically, the removal of RoR (which is currently a disincentive for movement from the VPS to public entities), and a commitment to developing common capabilities across the EO workforce.

Employment of Secretaries

As an interested party, the review did not make a determination as to whether it is most appropriate for the Premier or the Victorian Public Sector Commissioner (the Commissioner) to be responsible for the appointment and employment of Secretaries. The rationale for involvement of the Commissioner in Secretaries' appointment and employment would be to:

- de-politicise Secretary appointments;
- support Secretaries to provide frank and fearless advice; and
- support a workforce that is responsible for driving longer term reform agendas for the jurisdiction, beyond political cycles.

Regardless of the approach taken, the review considers that there is merit in involving the Commissioner in the recruitment and termination processes, at least in an advisory capacity.

Remuneration of Secretaries

The review recommends that consideration be given to increasing Secretary remuneration, following findings that Victorian Secretaries receive relatively low remuneration, compared to other jurisdictions, particularly when the size of their role and responsibilities is considered.

The review does not recommend the development of a classification structure or remuneration clusters for Secretary remuneration, and the establishment of a set threshold between Secretary remuneration and subordinate EO remuneration. The review considers that these structures are not required because:

- the small number of departments in Victoria means it would be difficult to establish a meaningful taxonomy for Secretaries;
- differences in current Secretary roles are not substantial, given the small number of departments, and therefore do not require clustering; and
- it was considered that clustering Secretaries remuneration could create symbolic differences in Secretary roles, whereby some roles were considered to be more important than others.

Attractiveness of current non-cash offerings

The review was not presented with evidence that any changes are required to current non-cash offerings provided to VPS and public sector EOs. Data analysis showed that the current offer of an executive vehicle in exchange or salary sacrifice is popular with EOs, with uptake exceeding 50 per cent in the VPS and in public entities.

In addition, the review was not advised of any particular limitations concerning other non-cash offerings, or that any changes to non-cash offerings were required to improve the attractiveness of the offer.

Total Remuneration Package

The review recommends that the EO remuneration offer be expressed as including salary and any other benefits plus superannuation (rather than a TRP).

The review was advised that the use of TRPs can create administrative problems when Commonwealth superannuation contribution requirements change. The review was advised that offering remuneration as a salary plus superannuation, rather than a TRP, would enable changes to superannuation amounts to be administered more efficiently.

All other jurisdictions (except TAS) offer a TRP or equivalent. Changing Victoria's offering to a salary plus superannuation may risk the offer appearing less competitive. However, the review was not advised that a change to salary plus superannuation would have any impact on the attractiveness (or otherwise) of the EO offer. Given the administrative inefficiencies, the review considers that there is sufficient merit to changing to a salary plus superannuation arrangement.

Standard EO contract

The review recommends that VPS and public entity EO standard contracts be revised to reflect current employment standards and principles (including an increased focus on integrity); and to reflect broader amendments to the EO employment and remuneration framework arising from this review.

Three key issue areas with the contract are summarised below:

- it is out of date and does not always reflect current employment legislation.

- it is not reflective of best practice, and requires updates to better reflect:
 - intellectual property, restraint of trade, suspension, and confidentiality;
 - integrity expectations of EOs, by including explicit clauses which require executives to avoid, declare, and manage conflicts of interest and to act with the honesty, probity and integrity reasonably expected of a VPS EO; and
 - the diversity of employees, by removing gendered pronouns.
- The language and structure of the contract needs to be reviewed to improve readability. Improvements could include the addition of a dictionary, the simplification of language and clauses, the grouping of 'like' content, differentiating body and schedule content, and capturing standard provisions (e.g. leave provisions) in a separate document.

The VPS standard contract is also used as a model contract for public entity EOs. Therefore any updates would impact on public entities, unless specific references are made to exclude provisions from the entity contract.

Probation periods

The review does not recommend any changes to EO contracts in relation to establishing a probationary period. The review was not presented with evidence that probationary periods should be applied.

EO recruitment strategies

The review does not recommend any changes to EO recruitment strategies at this time.

The VPSC will establish a whole of Victorian Government panel to deliver professional executive search and recruitment services. This panel will support efficiencies in EO search, recruitment and selection processes, and enable departments to leverage outcomes from partnering with specialised and quality assured EO recruitment and selection providers. Additional changes could be considered following the introduction of a whole of Government EO recruitment panel.

Appendix A TERMS OF REFERENCE

On 28 July 2015 the Premier requested that the VPSC conduct a review of the Executive Officer employment and remuneration framework.

The Premier requested an interim report by 28 January 2016 and a final report by 28 April 2016.

The Terms of Reference note that the review represents an opportunity to re-examine the current approach and develop a clear, effective and efficient framework that:

- supports VPS and broader public sector employers to recruit, manage and retain high performing and professional EOs;
- supports the mobility of EOs across VPS and public sector organisations;
- provides clarity about EO accountabilities and work value standards;
- establishes Victoria as an employer of choice for public sector EOs in Australia;
- ensures remuneration levels are competitive with other comparable Australian jurisdictions;
- ensures transparency, fairness and rigour in the appointment of EOs and setting remuneration levels;
- enables Government to retaining oversight over expenditure on EOs; and
- recognises the diversity of VPS and public sector employers and does not unjustifiably burden employers nor undermine their ability to make staffing decisions according to organisational need.

1. Executive workforce structure and governance

The review will:

1.1 examine Victoria's four band VPS EO structure (Secretary/Administrative Office Head; EO-1; EO-2; EO-3) to:

1.1.1 identify options to standardise the relationship between EO bands, titles and roles to ensure consistent EO accountabilities, responsibilities and work value standards;

1.1.2 assess whether there remains an ongoing need for a distinction between EO workforce arrangements in the VPS and the public sector, and if applicable, provide options for aligning workforce arrangements;

1.2 examine the prevalence of non-executives performing executive-like functions (e.g. Senior Technical Specialists) and, if applicable, consider options to regularise these arrangements;

1.3 examine whether appointment to an EO band (e.g. EO-2) or a specific position is preferable for ensuring EO mobility in the VPS and in the broader public sector; and

1.4 develop classification tools, work value standards and benchmark descriptors for classifying future EO roles.

2. Employment arrangements

The review will:

- 2.1** examine whether fixed term or ongoing employment arrangements are more suited to attracting and retaining high quality EOs, maintaining a high performing workforce, and ensuring the highest standards of integrity and whether probationary periods should apply;
- 2.2** examine the ongoing need for Right of Return, which is currently legislated in section 27 of the *Public Administration Act 2004*.
- 2.3** examine specific employment arrangements for secretaries, particularly in relation to their appointment process and the role of the Victorian Public Sector Commissioner in the appointment process;
- 2.4** examine changes to the standard EO contract to ensure that it is fit for purpose; and
- 2.5** examine the adequacy of current recruitment strategies in attracting high performing EOs and, if applicable, provide advice about options to improve those recruitment strategies.

3. Remuneration

The review will:

- 3.1** examine the effectiveness of existing EO remuneration governance arrangements (including the role of the Premier and DPC) in providing a clear framework for setting EO remuneration at a level that attracts and retains high performing EOs;
- 3.2** provide advice about options for alternative EO remuneration governance arrangements, including the potential introduction of a remuneration tribunal to set EO remuneration and provide an industry-specific approach to setting remuneration;
- 3.3** examine whether there remains an ongoing need for a distinction between EO remuneration arrangements in the VPS and the public sector, and if applicable, provide options for aligning remuneration arrangements;
- 3.4** examine the adequacy of the size and composition of the remuneration offerings for attracting and retaining high performing EOs, including consideration of:
 - 3.4.1** the position of Victoria's remuneration offerings in relation to other comparable Australian jurisdictions;
 - 3.4.2** the upper limit of the Victorian secretary remuneration range as a suitable ceiling on EO remuneration and whether secretaries should be clustered in tiers for the purpose of setting remuneration expectations;
 - 3.4.3** the use of performance related incentive payments (bonuses);
 - 3.4.4** the size of the salary offered in comparison to other jurisdictions, the private sector, and the non-EO workforce (particularly STS-7 and VPS-6);
 - 3.4.5** the relationship between the salary offered and the value of the work conducted;
 - 3.4.6** the use of total remuneration packages as opposed to disaggregated packages that separate salary, superannuation and other benefits;
 - 3.4.7** the use of non-cash offerings, including motor vehicles and superannuation; and
 - 3.4.8** the use of recruitment and retention payments.

4. Performance management

The review will:

- 4.1** examine the adequacy of existing performance management tools (including the performance review process and the use of bonuses) in driving EO performance;
- 4.2** examine ways to drive EO performance in line with government priorities, and to encourage cross-portfolio collaboration and shared responsibility for whole-of-government issues;
- 4.3** advise on the development of capability frameworks and assessment tools to define and assess EO performance; and
- 4.4** advise on best practice talent management strategies, including the role of the Victorian Leadership Development Centre, in building a strong EO workforce.














5. Control of EO numbers

The review will:

- 5.1** examine whether controlling EO numbers via a cap system is necessary in light of existing budgetary constraints; and
- 5.2** if a cap system is deemed necessary, advise on ways of reducing risks associated with EO controls, including the risk that employers will use alternative workforces as EO equivalents.

Appendix B ICON REFERENCE LIST

The following icons are used throughout the report. This table references the sources of these icons from The Noun Project.

Icon	Title	Creator	Icon	Title	Creator
	Buildings	Nicole Kathryn Griffing		Boardroom	Lance Hancock
	Scale	Edward Boatman		Winner podium	TukTuk Design
	Contract	Samy Menai		Man	Demetria Rose
	Money	Gira Park		Woman	AIGA Collection
	Team	Wilson Joseph		Team	Ed Gray
	Scale	Martin Vanco, SK		Board	Gira Park
	Plus	Napoleon, SE			