



**Government  
of South Australia**

TRS19D1329

Hon Stephen Mullighan MP  
Member for Lee  
Unit 1, 62 Semaphore Road  
SEMAPHORE SA 5019

**Treasurer**  
Level 8  
State Administration Centre  
200 Victoria Square  
Adelaide SA 5000  
GPO Box 2264  
Adelaide SA 5001  
DX 56203 Victoria Square  
Tel 08 8226 1866  
treasurer.dtf@sa.gov.au

[lee@parliament.sa.gov.au](mailto:lee@parliament.sa.gov.au)

  
Dear Mr Mullighan

**APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991***

I refer to your application made under the *Freedom of Information Act 1991* (FOI Act), dated 16 May 2019.

Your application seeks access to:

*"All minutes, briefings and correspondence titled 'ReturnToWorkSA – Confidential: Board Membership' as described on the Objective document management system, between 12 July 2018 and 16 May 2019."*

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 26 May 2019 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 2 documents were identified as answering the terms of your application.

I grant you access in full to 1 document; a copy of which is enclosed.  
I grant you access in part to 1 document; a copy of which is enclosed.

**Document Released in Full**

Document 1

## **Document Released in Part**

Document 2 is released in part as it contains information of a personal nature which if released, would be an unreasonable disclosure of personal affairs. I therefore determine this information exempt pursuant to clause 6(1).

The document also contains information, which, if released, would disclose details concerning a deliberation or decision of Cabinet. I have therefore determined to exempt this information pursuant to clause 1(1)(e).

## **Exemptions**

### **Clause 1 – Cabinet Documents**

- (1) *A document is an exempt document—*
- (a) *if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or*
  - (b) *if it is a preliminary draft of a document referred to in paragraph (a); or*
  - (c) *if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b).*
  - (e) *if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; or*
  - (f) *if it is a briefing paper specifically prepared for the use of a Minister in relation to a matter submitted, or proposed to be submitted to Cabinet.*

### **Clause 6 – Documents affecting personal affairs**

- (1) *A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

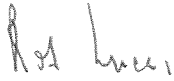
In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, Section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, Section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on 8226 9769.

Yours sincerely

A handwritten signature in cursive script that reads "Rob Lucas".

**Hon Rob Lucas MLC**  
*Principal Officer*

15 December 2019

**RELEASE**

MINUTES forming ENCLOSURE

File TRS18D1935

Doc No A952927

To The Treasurer

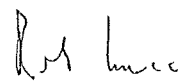
**CONFIDENTIAL: MS JANE YUILE – BOARD MEMBERSHIP**

Timing: ROUTINE

**Recommendations/Issues:** It is recommended that you:

- Note that on 3 October 2018, Chief Executive Officer Rob Cordiner of ReturnToWorkSA (RTWSA) wrote to you providing information on the Board membership of Ms Jane Yuile and seeking your approval of waiving a \$24,750 debt due to overpayment of Board fees that Ms Yuile has received;
- Note that the debt has arisen as Ms Yuile continued to be remunerated at the level of Board Chair of RTWSA between the period February 2018 to August 2018, despite the suspension of her in this role due to health reasons;
- Note that, Treasurer's Instruction 5 outlines that debts must not be written off where the debtor is a current SA Government employee, and it is not common for debts involving SA Government employees to be written-off or waived;
- Should you support the request, approve, under Treasurer Instruction 5, to waive the overpayment of \$24,750 in board fees paid to Ms Yuile between February 2018 and August 2018; and
- Sign the attached letter to RTWSA advising of your approval.

Approved/Not-Approved



Hon Rob Lucas MLC  
Treasurer

8/11/18

**Key Points:**

- On 3 October 2018, Chief Executive Officer (CEO) Rob Cordiner of RTWSA wrote to you providing information on the Board membership and arrangements of Ms Yuile following her serious injury in October 2017, and seeking your approval of waiving a \$24,750 debt due to overpayment of board fees that Ms Yuile has received between February 2018 and August 2018 (attached).

- In October 2017 Ms Yuile, then Chair of RTWSA, had a medical accident resulting in a serious spinal injury and was unable to attend Board meetings due to hospitalisation and the severity of the injury.
- On 13 February 2018 His Excellency the Governor in Executive Council (Governor), pursuant to section 5(5) of the *Work Corporation of South Australia Act 1994 (Act)*, suspended Ms Yuile from the position of Chair of the RTWSA Board for 12 months due to her inability to attend Board meetings and perform her role as Chair. Additionally, pursuant to section 5 and 6 of the Act, the Governor appointed Ms Jo Denley as Chair of the RTWSA Board during the same period, to allow a smooth transition of the Chair until Ms Yuile's capacity to return to the role was determined.
- Subsequently the former Deputy-Premier and Attorney-General John Rau (Minister) advised Ms Yuile of her leave of absence and appointment of Ms Denley as Chair, and that during her period of leave she would continue to remain as a Board member and entitled to be remunerated accordingly.
- It is understood that the former Minister's position was that Ms Yuile should not be financially disadvantaged during her recovery and continue to be remunerated at the Chair rate of \$100,000 per annum. Consequently RTWSA continued to pay Ms Yuile the annual Chair remuneration rate and advised DPC accordingly.
- On 24 September 2018 DPC advised RTWSA that Ms Yuile was not entitled to be paid the Board Chair annual rate as the Governor did not make mention of remuneration amendments in accordance with the Act.
- Section 7(1) of the Act requires that a member of the Board is entitled to fees, allowances and expenses approved by the Governor, currently \$55,000 per annum for a member and \$100,000 per annum for the Chair of the RTWSA Board, payable from the Compensation Fund under the *Return to Work Act 2014*.
- As the Governor was not asked to make any specific Board fee approval for Ms Yuile, once Ms Yuile became an ordinary member of the Board her entitlement to remuneration should have reduced to \$55,000 per annum.
- Upon receiving this advice RTWSA reverted to pay Ms Yuile the Board member rate of \$55,000 per annum. However there now exists a technical debt for the salary overpayment of \$24,750 to Ms Yuile for the preceding period in which she was paid at the Board Chair rate, but was not actually the Board Chair. RTWSA is now seeking your approval to waive the debt associated with the overpayment of Board fees to Ms Yuile, given her circumstances and the fact that the overpayment was through no fault of her own.
- Treasurer's Instruction 5 (TI5 - *Debt Recovery and Write-Offs*) outlines that debts must not be written off where the debtor is a current SA Government employee, and that the SA Government employee must be pursued for prompt payment. 'Employee' is defined as a SA Government employee who is an employee of the Crown or a statutory authority or a person who is appointed to any office under an Act. It is therefore common practice to pursue recovery of the debt in such circumstances.
- However, TI5 also allows for the waiver (permanently expunging) of a debt owed to the State such that the debt cannot be pursued by the State at a later date. This can transpire when there is a moral obligation on the State to extinguish the debt (eg a direct act or omission of a public authority or impact of a state law has caused a person or entity to incur an unintended debt, the recovery of which would result in an overall loss to the person or entity concerned) or the debt is irrecoverable.

- For public authorities that are not administrative units (i.e. statutory authorities), it is within the power of the Board, governing authority, or Treasurer to waive a debt if they so choose.
- Ms Yuile has received an unintended technical debt (salary/Board membership overpayment), and it is fair to assume that she is unaware of the technical legal obligations associated with this, and would incur a financial disadvantage should she be required to refund the overpayment.
- Therefore, pertinent to TI 5.23, should you support RTWSA's request, it is within your power to approve to waive the Board membership overpayment of \$24,750 paid to Ms Yuile between February 2018 and August 2018 from the RTWSA Compensation Fund.
- A draft response anticipating your approval of the waiver is attached for your consideration.



Tammie Pribanic  
EXECUTIVE DIRECTOR  
BUDGET AND PERFORMANCE

November 2018

Contact Officer:	Sandy Burness
Telephone:	84290620
Email address:	Sandy.burness@sa.gov.au



**Government  
of South Australia**

MINUTES *forming* ENCLOSURE to:

Physical ID: TRS18D1935

Office of the  
Treasurer  
Level 8  
State Administration Centre  
200 Victoria Square  
Adelaide SA 5000  
GPO Box 2264  
Adelaide SA 5001  
DX 56203 Victoria Square  
Tel 08 8226 1866  
treasurer.dtf@sa.gov.au

**TO: CHIEF EXECUTIVE OFFICER  
RETURNTOWORKSA**

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**RE: CONFIDENTIAL: MS JANE YUILE – BOARD MEMBERSHIP**

I am writing to you in regards to the ReturnToWork South Australia (RTWSA) Board membership of Ms Jane Yuile and your request that I approve waving a debt of \$24,750 owed to RTWSA by Ms Yuile.

I have reviewed RTWSA's request and understand that Ms Yuile continued to receive the Board Chair annual remuneration rate (\$100,000) from the period February 2018 until August 2018, despite being suspended from her position as Chair of the RTWSA Board in light of her health concerns.

I also understand that upon the Department of the Premier and Cabinet advising RTWSA that Ms Yuile was not entitled to be paid the Chair rate, her remuneration was lowered consistent with her current position as a member of the RTWSA Board. Notwithstanding this, there now remains a technical debt of \$24,750 relating to the salary overpayment in the period between February and August 2018.

It appears that Ms Yuile has received an unintended debt that she was unaware of and for which she has no fault. In light of this, and given her circumstances, under Treasurer's Instruction 5.23 *Debt Recovery and Write Offs*, I am advising you that I have approved to waive the Board membership overpayment of \$24,750, paid to Ms Yuile between February 2018 and August 2018 from the RTWSA Compensation Fund. Could you please ensure that you record this debt waiver in your register as required by TI5.

A handwritten signature in black ink, appearing to read 'Rob Lucas'.

**Hon Rob Lucas MLC**  
*Treasurer*

8 November 2018



**RELEASE IN PART**

<b>MINISTER'S OFFICE</b>	
Rec'd .....	3/10/18.
File No:.....	T.18/037
Physical ID:.....	T.R.S. 18.D.1935



Sensitive: Personal

Our reference: D18/1926190

**TO:           TREASURER**

**RE:           CONFIDENTIAL: MS JANE YUILE – BOARD MEMBERSHIP**

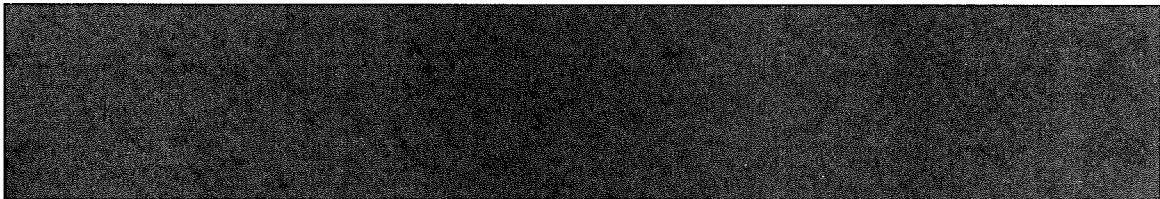
**PURPOSE**

To provide you with information on arrangements that were made following Ms Jane Yulle's serious Injury in October 2017 and an update of her current circumstances

**BACKGROUND**

Ms Yulle was appointed to the RTWSA Board in November 2013 having served on the WorkCoverSA Board since September 2008. Ms Yulle was appointed Chair of WorkCoverSA in November 2013 and reappointed as Chair of RTWSA in 2016 until October 2019.

clause 6(1)



From November 2017- January 2018 the ReturnToWorkSA (RTWSA) Board would elect a Chair for each meeting,

In late January I raised the matter with the then Minister. At the time the Minister had not met with Ms Yulle since her accident. After consideration he decided to appoint Ms Jo Denley as Chair for a period of 12 months on the understanding that Ms Yulle may gain recovery and be able to return to complete her term. This would provide RTWSA with stability at the Board level. The Minister specifically asked that Ms Yulle not be financially disadvantaged during her recovery. The Minister was keen to support and, at the very least, not hinder Ms Yulle during her recovery. To support the concept of Ms Yulle recovering and returning to the Chairs role upon her recovery,

clause 1(1)(e)



On 13 February the Governor suspended the appointment of Ms Yulle for 12 months as Chair and appointed Jo Denley for the same period.

**ISSUES**

In line with the discussions I had participated in with the then Minister, I have authorised Ms Yulle's fees at the rate of the Board Chair from February creating no financial disadvantage in the unusual circumstances in which Ms Yulle found herself.



On Monday 24 September 2018 the RTWSA Board Secretary received an email from DPC advising that Ms Yulle was not entitled to be paid at the Chair's rate, explaining that the Governor's gazettal did not make mention of remuneration for the period. Accordingly the remuneration that should apply was for one person to be the Chair at the Chair's rate of \$100k per annum and for Ms Yulle to revert to the board member rate of \$55k per annum.

clause 6(1)

I arranged to visit Ms Yulle at the [REDACTED] [REDACTED] I explained the situation and advised that her September fees would be at the board member rate and there was a 'technical debt' (term used by Department of Premier and Cabinet). I advised that I understood the relevant Minister may waive the debt in the circumstances, or ask me to arrange recovery of the debt created by the overpayment. The amount of the overpayment is \$24,750 being for the period of February 2018 to August 2018.

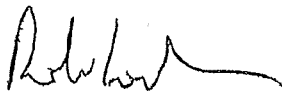
During my meeting with Ms Yulle she indicated that she has also been assessing her capacity in the light of her recovery to date. I understand that Ms Yulle is liaising with your Executive Assistant to arrange a meeting to discuss resigning as a Board member of RTWSA given her expectations of her ongoing capacity and her completion of 10 years on the Board.

I am advised that as the relevant minister you are able to waive the debt or ask me to arrange recovery of the debt. I appreciate you may want advice from the Crown Solicitor on this matter. If so, their reference is M00135135FS07072056.

**RECOMMENDATION**

Given the intention of the former Minister, it is my view that Ms Yulle has not knowingly incurred a debt. Similarly, I authorised the actual payments understanding the intention of the Minister was for Ms Yulle to suffer no financial disadvantage during her recovery.

I recommend you waive the amount of \$24,750 in Board fees that are now judged to be overpayments for the period February 2018 to August 2018.



**Rob Cordiner**  
Chief Executive Officer

3 October 2018

<b>APPROVED</b>
Treasurer