



**Government
of South Australia**

TRS19D0992

Hon Stephen Mullighan MP
Member for Lee
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SEMAPHORE SA 5019

Treasurer
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Stephen

Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 7 May 2019.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'Election Commitment – Paid Parental Leave – Surgical Registrars' as described on the Objective document management system, between 12 July 2018 and 7 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 1 document was identified as answering the terms of your application.

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

Document Released in Part

This briefing was prepared by the Industrial Relations and Policy Branch (IRAP) within the Department of Treasury and Finance (DTF) in relation to an election commitment on paid parental leave – surgical registrars.

The briefing also had three attachments:

- Attachment A: letter from the Royal Australasian College of Surgeons (RACS) to the Leader of the Opposition dated 22 January 2017.
- Attachment B: letter of response from the then Shadow Minister for Health and Wellbeing dated 6 March 2018.
- Attachment C: discussion paper in relation to the matters raised by RACS.

I advise that the briefing and discussion paper (Attachment C) are documents which were prepared internally and contains advice and recommendations which were considered for the purpose of decision making relating to the functions of Government. On balance, it is not in the public interest to disclose the content of these documents as it is important for the Government to receive frank and comprehensive advice and opinions, including the expression of views which may be contentious. The prospect that unknown third parties may obtain access to those documents by way of an FOI application may inhibit the provision of full and open opinions and recommendations on such matters in the future.

These briefings are provided to me on the basis that they are both forthright and candid. If these briefings were to be disclosed, such advice and commentary would not be provided in a candid and forthright manner. Disclosure may also lead to confusion and unnecessary debate resulting from the disclosure of possibilities that are being considered.

Whilst there is a strong public interest in government accountability and transparency, there is the competing public interest to ensure that full and frank advice can occur in confidence. It is necessary that I'm appropriately informed and updated on these matters.

I therefore determine this information exempt pursuant to clause 9(1)(a)(i).

I advise both the election statement referenced in the letter from RACS and Attachment B are publicly available and have not been provided to you.

I determine Attachment A can be released in full.

Exemptions

Clause 9 — Internal Working Documents

(1) *a document is an exempt document if it contains matter—*

(a) *that relates to—*

(i) *any opinion, advice or recommendation that has been obtained, prepared or recorded; or*

(ii) *any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and*

(b) *the disclosure of which would, on balance, be contrary to the public interest.*

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 Act.

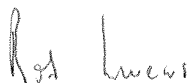
In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit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

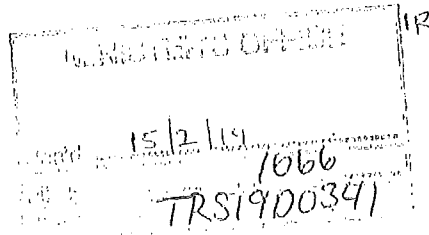


Hon Rob Lucas MLC
Principal Officer

31 July 2020

RELEASE IN PART

MINUTE



MINUTES forming ENCLOSURE

File: DPC18/3383PT001

Doc No: DPC19D00290

TO: THE TREASURER

CC: CHIEF EXECUTIVE, DEPARTMENT OF TREASURY AND FINANCE

SUBJECT: ELECTION COMMITMENT
PAID PARENTAL LEAVE – SURGICAL REGISTRARS

TIMING: ROUTINE

Recommendation:

That you Note:

- This Minute and the attached discussion paper, the key points of which are:
 - In March 2018 the now Minister for Health and Wellbeing gave a commitment to the Royal Australian College of Surgeons (RACS) to discuss the issue of paid parental leave with Federal and Interstate Ministers;
 - South Australia recognises service in the public health system throughout Australia, as do all other jurisdictions except New South Wales and Tasmania (NT is pending);
 - It is not clear from the material provided by RACS that non-recognition of service in other jurisdictions is a significant factor in causing female surgical registrars to drop out of training;
 - [REDACTED]
- That service in other public health systems is recognised by SA Health for the purposes of paid parental leave entitlements.
- [REDACTED]

Noted

Hon Rob Lucas MLC
Treasurer

20/12/2019

1. On 22 January 2017, Mr David Walters, Chair of the SA Regional Committee of the Royal Australian College of Surgeons ("RACS") wrote to The Hon Stephen Marshall MP, who at that time was the Leader of the Opposition. Attachment A is a copy of Mr Walters' letter.
2. RACS was asking political parties to outline policy positions on key issues of interest to the delivery of surgical services. Those issues were outlined in an attachment to the letter ("the Election Statement"). They included "*Recognition of Paid Parental Leave Entitlements and Diversification of Surgical Workforce*". RACS expressed a concern about registrars who move interstate losing eligibility for paid parental leave. There was a suggestion that this may be a factor in causing some female surgical registrars to drop out of their training.
3. RACS requested a commitment to raise at COAG level the issue of eligibility of surgical registrars for paid parental leave.
4. The Hon Stephen Wade MLC, who at the time was the Shadow Minister for Health, responded to RACS on behalf of the Leader of the Opposition. Attachment B is a copy of Mr Wade's letter of 6 March 2018. A commitment provided to RACS was limited to raising the issue of paid parental leave with Federal and interstate Ministers.
5. Attachment C is a discussion paper in relation to the matters raised by RACS, prepared by the Industrial Relations and Policy Branch.
6. Key points in the discussion paper are as indicated in the recommendations above.

7.

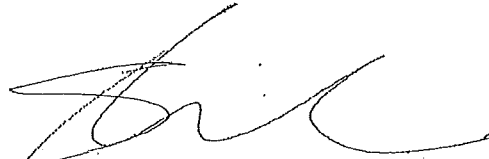


8.



15/12/19

Tom Kidman
DIRECTOR, INDUSTRIAL RELATIONS
INDUSTRIAL RELATIONS AND POLICY
BRANCH



15/12

Elbert Brooks
EXECUTIVE DIRECTOR
INDUSTRIAL RELATIONS AND POLICY
BRANCH

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C

**ELECTION COMMITMENT
PAID PARENTAL LEAVE: SURGICAL REGISTRARS
DISCUSSION PAPER**

Introduction

1. On 22 January 2017, Mr David Walters, Chair of the SA Regional Committee of the Royal Australian College of Surgeons ("RACS") wrote to The Hon Stephen Marshall MP, who at that time was the Leader of the Opposition. **Attachment A** is a copy of Mr Walters' letter.
2. RACS was asking political parties to outline policy positions on key issues of interest to the delivery of surgical services. Those issues were outlined in an attachment to the letter ("the Election Statement"). They included "*Recognition of Paid Parental Leave Entitlements and Diversification of Surgical Workforce*".
3. The Hon Stephen Wade MLC, who at the time was the Shadow Minister for Health, responded to RACS on behalf of the Leader of the Opposition. **Attachment B** is a copy of Mr Wade's letter of 6 March 2018.
4. RACS's concerns in relation to paid parental leave entitlements are set out on page 9 of the Election Statement. In summary, RACS argues that:
 - 4.1. surgical registrars, particularly females, have difficulty taking paid parental leave during their training;
 - 4.2. a reason for this is that surgical registrars often undertake training interstate or in New Zealand (this particularly affects specialties such as paediatric, vascular and urological surgery);
 - 4.3. training in other jurisdictions can interrupt continuity of service so as to affect entitlements to paid parental leave.
5. RACS requested a commitment "*to raising this matter at COAG to assist in gaining agreement that all states and territories would commit to recognising 12 months' of continuous service in the public hospital system in Australia for eligibility to paid parental leave, rather than service in any one particular state or territory*".
6. Mr Wade gave a commitment to discuss the issue of paid parental leave with Federal and Interstate Ministers.
7. This discussion paper is concerned with the commitment in relation to paid parental leave entitlements. It has been prepared with the assistance of personnel within the Workforce Strategy section of the Department for Health and Wellbeing.


Issue

8. The Election Statement claims that only 12% of Fellows of RACS are women. It acknowledges that 30% of SET trainees¹ are women and that female trainees drop out at twice the rate of males.

¹ SET means Surgical Education and Training

9. The extent to which non-recognition of service in other jurisdictions contributes to the issue raised by RACS is not clear.
10. In 2018, an article in the *ANZ Journal of Surgery* considered the reasons for the attrition rate in surgical training.² The authors noted that women were significantly over-represented among those who chose to leave their training. However, the authors did not identify issues in relation to paid parental leave as a specific concern. The main reasons for not completing training were inflexibility in the training programme; an unacceptable culture in which to learn; and having commenced surgical training, surgery was judged the wrong career choice.
11. The Election Statement itself acknowledges that there are "multiple players involved", being the College's Specialty Training Boards, hospitals and "jurisdictions". This appears to be an acknowledgment that a system whereby service throughout Australia is recognised by all jurisdictions would not of itself address the issue raised.

South Australia

12. South Australia already recognises service in another jurisdiction for the purposes of working out entitlements to paid parental leave.
13. In South Australia, entitlements to paid parental leave for Surgical Registrars are provided for in the *SA Health Salaried Medical Officers Enterprise Agreement 2017* ("Enterprise Agreement") and the Department of Health and Wellbeing's *SA Health (Health Care Act) Human Resources Manual* ("HR Manual").
14. Conditions for recognition of prior service for employees who are subject to Part 7 of the *Public Sector Act 2009* (SA) are outlined in the *Commissioner's Determination 3.1: Employment Conditions – Hours of Work, Overtime and Leave* (Section G). 
15. Employees, including surgical registrars, are entitled to paid parental leave after completing 12 months continuous service. Determination 3.1 provides that service with the Commonwealth or another State or Territory counts as service for the purpose of working out the entitlement to leave. Under the Enterprise Agreement, Salaried Medical Officer employees are entitled to 16 weeks leave after 12 months of continuous service, or 20 weeks if an employee has completed at least 5 years continuous service, recognised by the South Australian public sector.

Other Jurisdictions

16. In other jurisdictions, the situation is:
 - 16.1. Queensland, Australian Capital Territory, and Western Australia recognise service in public hospitals in other jurisdictions for purposes of paid parental leave;
 - 16.2. Victoria provides recognition of service in other jurisdictions provided that employment commences within two (2) months of concluding employment in the other jurisdiction.

² *Leaving surgical training: some of the reasons are in surgery* ANZ J Surg 88 (2018) 402. The journal is published by RACS.

16.3. In the Northern Territory, it is understood that a new enterprise agreement will (subject to approval) provide for recognition of service for the purposes of paid parental leave for employees in NT Health who undertake training interstate because the training is not available in the NT, and who resume their role in the NT within a period of not more than two months of completing the training.

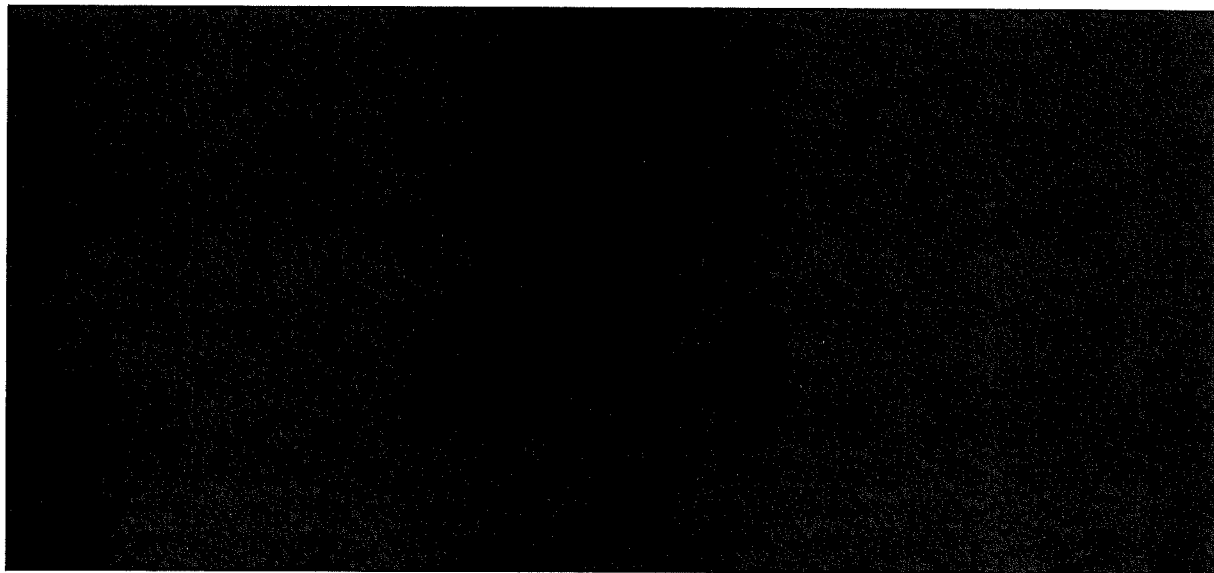
16.4. Neither New South Wales nor Tasmania recognise service in other jurisdictions.

17. The reason why New South Wales and Tasmania do not recognise service in other jurisdictions is not known.

18. Female surgical registrars are thus disadvantaged in terms of eligibility for paid parental leave if:

18.1. they commence their training in New South Wales or Tasmania but undertake part of their training in another jurisdiction; or

18.2. they move to New South Wales or Tasmania and remain there.



Election Commitment

22. The commitment given to RACS was to raise the issue of paid parental leave with Federal and interstate Ministers. The then Shadow Minister for Health did not make a commitment to support the position advocated by RACS.

23. The extent to which South Australian registrars undertake training in New South Wales and Tasmania is not known. However, those registrars who do so are not disadvantaged upon returning to South Australia in terms of eligibility for paid parental leave. [REDACTED]

24. In so far as RACS considers there to be a problem, it may lie with New South Wales and Tasmania. However, if New South Wales and Tasmania were to recognise service in other jurisdictions, that in theory may operate as an incentive to remain in those jurisdictions and therefore risk a loss of skills from South Australia which already recognises service.

25. The COAG Health Council ordinarily convenes three times each year. [REDACTED]
- The first meeting for 2019 is scheduled to be held on 8 March 2019 and it is understood that the agenda for that meeting has been finalised. [REDACTED]
- [REDACTED]

RELEASE

South Australian Regional Office
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Email: college.sa@surgeons.org

22 January 2017

The Hon. Stephen Marshall MP
Leader of the Opposition
Office of the Leader of the Opposition
Parliament House Adelaide SA 5000

Via email: dunstan@parliament.sa.gov.au

Dear Mr Marshall,

The Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical standards, professionalism and surgical education in Australia and New Zealand.

RACS is a not-for-profit organisation that represents more than 7,000 surgeons and 1,300 surgical trainees and International Medical Graduates. Our members commit to ensuring the highest standard of safe and comprehensive surgical care for the communities they serve, and as part of this commitment, RACS strives to take informed and principled positions on issues of public health.

Prior to every State and Federal election, the Royal Australasian College of Surgeons seeks to provide an opportunity for political parties to outline their policy positions on key issues relating to the delivery of surgical services. We then undertake to distribute the responses to the membership and indeed the wider community.

Our attached election statement outlines the areas of concern and interest to SA Surgical Fellows, Trainees and International Medical Graduates in the lead-up to the forthcoming election. This document has been developed to focus on policy and not politics. It is in this spirit that we ask that you review this document and provide a response by **5 March 2018**.

Yours Sincerely,



David Walters
Chair, SA Regional Committee

Cc: The Hon. Stephen Wade, Shadow Minister for Health