

## **Review of the Australian Public Service**

### **Discussion Paper**

*This discussion paper was prepared to guide discussion with the APS Review Panel in a consultation meeting with CSG members on 1 August 2018. It contains a collation of views of those members who participated in its preparation.*

#### **Overarching Questions**

- What are the roles of the APS in modern Australia? What do/ should Government expect of the APS?
- How does it effectively fulfil those roles, and their related responsibilities and accountabilities, having regard to the environment in which it has to operate?
- Are there barriers and constraints to the performance of the APS that can be removed or reduced through the current APS Review process?

#### **The APS Operating Environment – a High Level Summary**

- Australia is a wealthy country. The population is highly educated and has high expectations which are robustly expressed.
- Social media enables everyone to express their views and they do so.
- The standards expected of our public officials and governments are high and the public perception is that those standards are not always being met.
- In earlier times, the community attitude was that we all have a role to play in helping to improve our circumstances. This has been replaced by a less tolerant community attitude, where everything is 'their responsibility' and anything that does not meet expectations 'their fault' ('their' being governments and/ or public services).
- In this environment engagement with the community by politicians and support for politicians in the general community has been lost.
- The operating environment is, therefore, disruptive and challenging for both politicians and the APS, compounded by the news cycle and social media demand for immediate responses.

#### **Responsibilities of a Public Service**

The APS is more than just an instrument of the Government of the day. It is a significant national institution in its own right. Its roles and responsibilities are not well understood, both in its work for the Government of the day and in its wider contributions to the nation as an institution in its own right. The Review Panel has an opportunity to redress this.

The responsibilities of the APS include:

- Advising Governments on the implementation of the Government's policy priorities.
- Applying expertise, research and consultative outcomes to provide robust options for implementation of the Government's agenda.
- Developing policies in the public interest, applying expertise, research and consultative outcomes.
- Implementing policies decided on by the Government.
- Advising Governments on the development of long term, medium term and short term policy and policy priorities.
- Regulating and monitoring compliance with Government regulation.
- While maintaining its responsibility to the Government of the day, ensuring appropriate responsiveness to the Parliament.
- Preparing for the advent of a change of Government.
- In serving the Government of the day the role of a public service is to do so in a way that achieves the Government's intent, efficiently, cost effectively, and ethically in a way that minimises unintended consequences and complies with the law.

### **Suggestions to the Review Panel**

#### ***Role of the APS***

- Develop an enduring contemporary statement of the roles and responsibilities of the APS, including its relationship with Ministers and Parliament and Ministerial Advisers.
- Acknowledge a separate identity of the APS (separate from - while responsible and responsive to - the Government of the day).
- The APS is not 'independent' of government but is a great national institution in its own right. It has its own non-partisan and professional ethos which is reflected in a set of described and enforceable values.
- Tackle the growing ambiguity about the respective roles and responsibilities of Ministerial advisers vis-a-vis the APS, by developing a contemporary statement of obligations, responsibilities, and legitimate domain of Ministerial staff. This would mirror the APS role statement recommended above.
- Recognise the role(s) of the APS in critically reviewing, reporting on and objectively advising on the effectiveness and appropriateness of existing programs.
- Identify and reinforce in the Review Report (for the benefit of both the APS and Ministers and their advisers) the roles and responsibilities of departmental heads as the Minister's adviser and as being responsible to the Government (through the Minister) for the functioning of the department.
- Reinforce:

- Ministers' responsibility to consider the advice given by departmental heads
- The duty of public servants to give effect to the lawful decisions of government.
- Encourage the APS to be brave in the advice it provides to Government. In turn, Governments need to be more overt in giving the APS 'permission' to act in this way.
- Rebalance focus – Too much focus on short term effects/ implications in public policy making, with compromises made to good policy as a result. There needs to be a way that the good longer term effects of policy consideration get at least equal weight with the shorter term consequences of change (*eg* losers).
  - Contestability of advice has been a good thing, but the rush to come to quick decisions has cost better outcomes.
- Consider the costs of enthusiasm for amalgamating and restructuring departments. Such changes should be tempered by recognition that there are some issues that should not be internalised and where conflicting interests need to be resolved by Cabinet.
  - Consider appropriate models of APS departments working together jointly.
- Strengthen the role of the Public Service Commissioner (PSC) as:
  - 'Institutional head' of the APS – responsible for capability, succession, etc.
  - Promoter and custodian of APS values.
  - Responsible for building, nurturing and fostering the health and performance of the APS as a national institution.
  - Responsible for pursuing diversity and inclusiveness so that the APS can adequately understand and serve the whole community.
 

Reinforce the requirement, for instance, that the PSC should personally sign off all appointments to the SES.
- Commonwealth/State relations: Recognise that there is no clean split between the layers of government. Where there is a boundary, there is likely to be a boundary dispute and cost shifting is the inevitable outcome, to the detriment of citizens. The modern theory of federalism being more effective as 'marble cake'; rather than a 'layer cake' is right.
- Nevertheless, it would be positive if the Review Panel could suggest some contemporary principles to guide the interactions between the APS and state and territory counterpart public services.
- Engagement with alternative governments to use the APS to best effect.
  - More significant engagement with the heads of relevant agencies (PM&C, Treasury, Finance and APSC) as well as line agencies during the caretaker period so each better understands the expectations of the other.

### ***Understanding Roles***

- The respective roles, responsibilities and accountabilities of Ministers, their offices and the APS are currently ambiguous and certainly not well understood publicly. Briefings should be included in orientation for incoming MPs and for new entrants to Ministers' offices - the latter to be organised by PM's chief of staff or that of the Minister for the Public Service.
  - Briefings to entrants to the APS at all levels - organised by the APSC.
  - Encourage discussion at all levels in the APS of the concept of Public Interest and its relevance.
  - Encourage the wider acceptance of senior APS officers spending time as senior policy advisers in Minister's offices. This has worked well in the past to the benefit both of Ministers, in getting high level advice and better co-ordination with their departments, of the APS officer (many have later become departmental Secretaries).
  - A code of conduct or set of values for staff in Minister's offices would be valuable. As Ministerial staff members are also public officials, paid for by the taxpayer, their obligations should be clear.

### ***Culture of the APS***

- Orientation
  - Sessions on the APS values, with practical examples, be included in orientation for all entrants to the APS, not only at base grade/graduate level. Indeed, with the growing lateral recruitment of private sector executives, accelerated absorption of APS values and conventions, by new APS senior executive leaders, becomes critical.
  - Such sessions, examples adjusted to the relevant level, included in development courses run by the APSC and by individual agencies.
  - Ethics sessions for Ministerial staff so that there is a common understanding of their responsibilities and those of APS advisers.
- Consider returning 'merit' to the list of values rather than being simply an employment principle (would require legislation).
- Emphasise the importance of leaders at all levels modelling the values, particularly at agency head level (a requirement in the Act), including discussion in the State of the Service Report (discussion rather than league tables which can be misleading).
- Revive an evaluation culture in government and the APS. Rather than always being on the defensive about mistakes/possible improvements to programs, there needs to be a greater preparedness to 'tell it as it is' and for this to be seen (indeed, supported) as a positive thing.
- Introduce a formal evaluation function. Rather than go back to the old Finance function of formal evaluation plans for each Agency, take a more selective approach that focuses on the bigger policy changes (eg the National Energy Guarantee) and formally incorporates an independent and public evaluation process (eg in the

enabling legislation that implements the policy).

- Recognise the importance of adopting good processes to produce good policy outcomes.
- When considering whether to outsource tasks, take into account that third parties outside the Service are not subject to the APS values.
- Give prominence to capability reviews (or their successors) of individual agencies in considering leadership in the agency.

### **Architecture**

- Consider whether we would be better off with a system of 12 or so enduring core departments and reduce the cost and performance impacts of the churn associated with restructures.
- Consider recommending a requirement that policy departments and their administrative arms where separate, put forward joint submissions to the Minister(s) wherever there are administrative implications, including in New Policy Proposals. This should also occur where the administration occurs outside the Portfolio, as with Human Services.
- Appointments to those positions that have an important degree of independence from the government-of-the-day (PSC, Auditor General, Statistician) are carried out with full due process. In the case of the PSC, require a recommendation by a panel of Secretaries chaired by the Secretary of PM&C.
- Consider recommending that, when appointments made to Secretary level (which are jointly considered by the Secretary of PM&C and the PSC) are not in line with the recommendation of the PSC, that fact should be notified to the Parliament as is the case with recommendations to the Boards of the ABC and the SBS. Include discussion in the Report of past methods of Central Co-ordination at the top of the Service and their respective benefits.
- Consider dividing current meetings of Secretaries (and perhaps some senior agency heads) into:
  - A Board of Secretaries (Chaired by the Secretary of PM&C and including the PSC) to consider ongoing matters of the management of the business of government (including such matters as cross-agency and whole-of-government policy and program management, priority setting *etc*) and
  - A Public Service Management Board (chaired by the PSC and including the Secretary of PM&C) to consider matters of APS capability (including development, succession planning, mobility *etc*).

### **Capability, including implementing government decisions**

- Recognising that professionalism is important, reinforce a transparent merit based and generally competitive processes for appointment and promotion. The concept of 'merit' may need updating and elaboration.

- Consider APS-wide Centres of excellence in key areas such as procurement and data analytics.
- Consider the pros and cons of fixed term appointments for agency heads, including the financial arrangements for early termination or for failure to reappoint to some role in the service. If it is decided to stay with fixed term appointments, consider recommending a change in termination / non- reappointment arrangements.
- Reassess the use of staff ceilings - a blunt instrument that can result in people brought in on contract (contractors) being used in areas that would better be managed by the APS itself - with a consequent de-skilling of the Service.
  - Such arrangements risk focusing on the contractor's own interests and future rather than that of the program as a whole, particularly where they have been brought in to virtually run a particular area.
  - Contractors should be subject to compliance with the APS Values.
- Consider ways to maintain interest such as encouraging the wider use of the practice in some agencies of using teams of lower level staff to consider all aspects of a policy or administrative arrangement, or of secondments to different areas of the main or other departments to widen expertise.
- To assist succession planning, recommend that the PSC compile every two years, in consultation with Portfolio Secretaries, a listing of the Band 3s in each Portfolio, together with their skills, development experience and future development needs. Include in this the assessment of the relevant Portfolio Head, plus other Secretaries who know them, of their future potential.
- Each Portfolio Secretary, in discussion with Portfolio Agency Heads, to consider and report to the PSC on capability gaps in the Portfolio that need to be addressed, including an assessment of emerging skill needs.
- The PSC should consult with Portfolio Secretaries on areas where mobility of staff, particularly at the upper levels of the Service, could increase effectiveness of the Service as a whole (as was done by MAB and MAC), recognising the part played in this by the losing agency head.

***Technology as an enabler in serving the community***

- The real costs of technological change, as well as the gains, need to be recognised and funded as does the time involved to bring it effectively on line.
  - While dependence on technology is unavoidable it needs to be recognised that technology will increasingly dictate not just how and when things will be done but what will be done.
  - It also needs to be recognised that a particular problem for government is that the use of technology often involves a significant shift of responsibility to users and that at present many of them not equipped to understand or manage that shift.

- Recommend that the Department of Finance ICT Investment Approval Process gives priority consideration to ensuring that the IT levers and expertise remains in government, emphasising the importance of the 'informed purchaser' role. Consider whether, particularly in view of the greater need for inter-Portfolio connectivity, the cost levels that trigger referral to this process should be reduced.
- The increasing importance of data analysis suggests a need to understand the future demands and support required.
  - Share data more freely across the Service to increase the evidence base. Include more data on agency websites or, where this may be sensitive, put in place a process to make known to other agencies what is available across the Service.
- In setting up new IT systems, consider carefully whether there are areas where it would actually be more outcome efficient to retain personal contact in terms both of customer satisfaction and of significantly reducing come-backs. Where such areas attempt to use IT for its efficiency benefits, the whole process can become too complicated, increasing regulation.
- Make wider use of the process applied by the Centrelink Lab where forms used by the public were pre-tested on groups drawn from the general population to verify usability. The same process could be used for automated phone answering and for websites, many of which are difficult to navigate.
- Make greater use of co-design with future users in determining the process for administering government programs.
- Consider whether there are areas where the UK 'Tell Us Once' process could be of benefit in Australia, lessening the need for people to fill in government forms with the same basic details that have already been submitted for other purposes.

August 2018