



# Protecting and Nurturing the Role and Capability of the Australian Public Service

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## First object of the APS (Public Service Act 1999 s3)

‘to establish an apolitical public service that is efficient and effective in serving the Government, the Parliament and the Australian public’

# High Court Judgment, Banerji case

Justices Keifel, Keane and Nettle:

‘There can be no doubt that the maintenance and protection of an apolitical and professional public service is a significant purpose consistent with the system of representative and responsible government mandated by the Constitution.’

J. Gageler:

‘... like its predecessors, the PSA (Public Service Act) “serves public and constitutional purposes as well as those of employment” ...’

J. Edelman:

‘... the law (the PSA’s constraints on freedom of political communication) is reasonably necessary and adequately balanced given the place of its legitimate policy purpose in Australia’s constitutional tradition and the importance of that purpose to responsible government.’

## J. Edelman:

‘The reason for the existence of values of being apolitical, impartial and professional is to enable a trusted relationship between, on the one hand, the public service and, on the other hand, Parliament, the executive government, which implements its statutes and policies, and the public, who are subject to the administration of those statutes.’

## J. Gageler:

‘The objects of the PSA and the manner in which the PSA regulates the APS continue a long tradition of professionalism and political neutrality of officers within departments of State for the administration of which Ministers of State are constitutionally responsible and politically accountable. The tradition can be traced through the predecessors of the APS to a process of public sector reform which began in the second half of the 19th century following recommendations in the *Report on the Organization of the Civil Service* in the United Kingdom for an end to ministerial patronage and for the creation of a permanent professional public service based on competitive recruitment and promotion purposes, which were taken up and implemented by legislation after the advent of responsible government in the Australian colonies and which contributed to its development. The ethos which emerged, which has prevailed throughout the history of the Commonwealth, has been that of “an apolitical public service which is skilled and efficient in serving the national interest”’.

## Woodrow Wilson, 1886, 'The Study of Administration'

- 'the general laws ... are obviously outside of and above administration';
- 'steady, hearty allegiance to the policy of the government they serve will constitute good behaviour. That policy ... will not be the creation of permanent officials, but of statesmen whose responsibility to public opinion will be direct and inevitable';
- '(the whole bureaucracy should be) removed from the common political life of the people, it's chiefs as well as its rank and file'.

## Role of departmental secretaries (PS Act, s57)

- ‘  
...  
a) principal official policy adviser to the agency minister;  
b) manager, ensuring delivery of government programs and collaboration to achieve outcomes within the Agency Minister's portfolio and, with other secretaries, across the whole of Government; ...’

# Royal Commission into Australian Government Administration (Coombs Report), 1976

‘Australian government administration now needs significant adaptation to deal responsibly, effectively and efficiently with the tasks which confront it.’

## Three key themes of Coombs Report

- To increase responsiveness to the elected government, reducing the independence of the public service;
- To increase efficiency in government administration by a greater focus on program objectives and results achieved ;
- To increase the representativeness of the public service and the openness of its interactions with the public.

# New Public Management themes

- ‘Management for results’;
- Devolution of administrative authority;
- Use of market type approaches and private business management techniques, such as:
  - contracting out, commercialisation and privatisation;
  - corporate planning and accrual accounting;
  - customer focus and service charters;
- Firmer political oversight, including through:
  - reduced security of tenure of senior civil servants, and
  - partisan staff support for ministers.

## New Public Governance themes

- More joined-up government, or whole of government;
- Some winding back of devolution;
- More emphasis on effectiveness and not just efficiency
  - collaboration rather than just competition,
  - partnering not just contacting,
  - ‘co- production’ and ‘co-design’
  - increasing role for NGOs not just for-profit organisations;
- Wider networking beyond government;
- ‘Downwards and outwards’ accountability.

## Some lessons from history

1. Aspects of traditional PA remain critical:
  - E.g. merit, due process
2. Significant gains from NPM, particularly efficiency
  - But some downsides and over-reach, blurring of boundaries, some ‘hollowing out’, lack of collaboration, excessive political control
3. Gains also from NPG, particularly whole-of-government collaboration and networking
  - But risks and challenges re citizens-centred services, continued capability loss and more political control

## APS Review (Interim Report) too complacent

- ‘international comparisons paint a positive picture of the APS’;
- ‘(it is) proud to recognise the achievements and international standing of the APS’;
- ‘we must also understand where and why it is not making its full potential’.

## J. Kenneth Haynes

Four key attributes of royal commissions:

- independent,
- neutral,
- public, and
- yielding a reasoned report.

Government structures may not need to replicate these but relationship between the political branches and the public service needs to be reconsidered

Need also to reveal more about what lobbyists and interest groups are telling government

# Preferred Reform Agenda – Continuity and Change

## *Governance*

- APS Values – re-introduce merit, and recast to clarify distinct role of APS cf ministers, MPs, political advisers, parliamentary service
- Strengthen role of APS Commissioner
  - Professional head of APS, appointment subject to Parliamentary approval
  - Secretary of PM&C is operational head
- More rigorous merit-based appointment of secretaries
- Clarify role, professionalism and accountability of ministerial advisers
- Clarify appropriate governance structures for different functions

## *Performance*

- Strengthen performance management including systematic evaluation
- Reinstate capability reviews
- Performance targets to be commensurate with resources provided

## *Capability*

- Clarify proposed ‘professions model’, nurture expertise
- Strengthen policy research and analysis units
- Each agency to address expertise requirements systematically
- Reinvigorate graduate programs to attract and retain the very best
- Build on successful diversity programs

## *Operating Model*

- Reduce frequency of MoG changes by clearer principles for MoG arrangements, building on 1987 framework
- Clarify architecture for exploiting new technology, and strategies for incremental implementation
  - Need to bring along employees, citizens and third parties affected
- Revise the way running costs are funded
  - Replace efficiency dividends while promoting continued productivity
- Revise the way pay and conditions are set, based on an APS-wide enterprise agreement and market comparisons
  - Review secretaries' remuneration as well
- Clarify with the States the architecture for coordinated regional and local service delivery
- Review the use of contractors and consultants

# Benefits of APS reform

- For the Government
  - Improved implementation of its policies and programs
  - High quality, relevant policy advice
- For the Parliament
  - Confidence in capacity to serve future governments
  - Assisting accountability by non-partisan reporting
  - Preservation of APS as central to responsible government
- For the Australian public
  - Impartial and competent delivery of services
  - Policy advice focused on the long-term public interest

## John Howard, 1997

- ‘Let me say at the outset my firm belief that an accountable, non-partisan and professional public service which responds creatively to the changing roles and demands of government is a great national asset. Preserving its value and nurturing its innovation is a priority of this Government.’
- ‘The responsibility of any government must be to pass onto its successor a public service which is better able to meet the challenges of its time than the one it inherited.’

## Conclusion

- Importance of APS as a constitutional institution
- Serving the Government, the Parliament and the Australian public
- The role demands stability and continuity, counterbalancing the undoubted importance of flexibility and innovation as the context changes and new challenges emerge
- Protecting and nurturing the APS is vital.