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The Secretary
Senate Finance and Public Administration Committee
Parliament House
CANBERRA ACT

Dear Secretary

I would like to make a brief supplementary submission to the one I sent you on 30 June 2023 dealing with the Public Service Amendment Bill.

It has been prompted by some pertinent remarks attributed to the Secretary of the Department of the Prime Minister and Cabinet, Dr Davis, in the Australian Financial Review of 3 July 2023 on relations between Ministers and the public service and the notion of “stewardship”.

Relations between Ministers and the public service

Dr Davis says that there is a need for “deep thinking about Westminster guard rails” that might “restore balance between ministers and the public service.” He asks “...how can we re-state the idea that yes, ministers in the end are the decision makers, but public servants have this really important role about providing detailed advice, getting it right, making sure ministers have information and can tell them when they can’t do something.”

These sound points are unfortunately not addressed in the Public Service Amendment Bill.

While the Westminster system is a variable beast for which there is no settled definition, one of its persistent guard rails has been that the recruitment, promotion and dismissal of public servants should be on the basis of merit and by due process. This has been thought to best provide an efficient, effective and stable administration in which officials are well placed to provide comprehensive and robust advice to ministers without apprehensions about dismissal if their advice is unpalatable. When it comes to the tenure of Secretaries of departments, this guard rail does not now exist. These officers can be summarily dismissed and without due process.

That is to say, the system in the Australian Public Service for Secretaries is intimidatory and, while its effects will be uneven and will depend, among other things, on the character and circumstances of individuals, it is inimical to the provision of the kind of advice ministers and governments are entitled to receive.

It is therefore **recommended** that the tenure of departmental secretaries be returned to that formalised by the Hawke government in the 1980s and which applied for much of the 20th century. That is, where ministers wish to remove a Secretary from a position, every endeavour be made to find that person another Secretary position or another position of comparable status and remuneration except in cases of removal for reasons of discipline, incompetence or incapacity caused by ill-health, with such a provision being included in the Public Service Amendment Bill.

Stewardship

The Australian Financial Review also reports Dr Davis as saying that "...stewardship is the idea that the public service has to be able to anticipate where it might need to do future work to make sure it has the skills to deliver."

While incomplete, that is markedly different, although far superior, to the definition of stewardship now in the Public Service Amendment Bill, that is, "The APS builds its capability and knowledge, and supports the public interest now and into the future, by understanding the long term impacts of what it does."

It is therefore **recommended** that the definition of stewardship in the Public Service Amendment Bill be amended along the lines suggested by Dr Davis, noting that it is not just a matter of skills but that appropriate structures, processes and resources will also be required for the public service to do its job properly. But even if this were to be done, it would not be appropriate for stewardship to be included as a "value" as making sure the public service has the necessary skills, resources, structures and processes is the responsibility of Ministers and senior officials and not for the vast majority of subordinate staff. No organisation with aspirations to be a "model employer" should submit staff to the possibility of disciplinary action for things over which they have no meaningful control, as would be the case if stewardship were to be added to the Public Service Act values.

Yours sincerely

Patrick Gourley

9 July 2023