

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

Parliamentary Library Lecture

Andrew Podger AO

10 September 2019

Introduction

Unfortunately the APS Review's final report is not yet public. I am not sure, however, that my lecture today would have been much different had the report been available to me.

I will focus today on the APS as an institution and its critical constitutional role. I will then present my own reflections on how it has evolved over the last 50 years, the lessons learned and the state of the service today, and the challenges it faces over the next decade or so.

I will highlight the measures I believe are essential to protect and nurture its role and capability, in doing so commenting on the directions the APS Review foreshadowed in its Interim Report, and some of the comments made by the Prime Minister since the election.

The Constitutional Role of the APS

The first object of the Australian Public Service, set out in Section 3 of the Public Service Act 1999 (PSA), is:

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

Few commentators of the recent High Court decision in the Banerji case mentioned the emphasis given to this object of the APS in all the judgments, nor the emphasis given to the constitutionality of the APS. Justices Keifel, Keane and Nettle state in their joint judgement:

'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 goes into more detail about the relevant sections of the Constitution, including s 61, s 63, s 64 and s 67:

'... like its predecessors, the PSA "serves public and constitutional purposes as well as those of employment" ...'

J. Edelman argues that:

'... 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.'

Later he says:

‘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.’

The justices also refer to the long history of the APS, Gageler stating:

‘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”’.

As an aside, let me also say that the High Court judgment does not add any new constraint on public servants’ freedom of speech. Indeed, there are references to the liberalization in the 1970s and 1980s of earlier constraints, and J Edelman in particular usefully identifies six factors that might be taken into account by APS managers in applying the constraint that remains in the PSA. There are no references in the judgments to the severity or otherwise of the penalty imposed on Ms Banerji but, if J Edelman’s factors had been applied, quite possibly a lesser penalty may have been appropriate and she might have been given opportunity to cease her blog and/or transfer to a different department. I hope the APS Commission considers a revision of its guidelines to take into account J Edelman’s suggestion.

The careful references in the High Court judgement to the constitutional role of the APS are an important reminder that protecting and nurturing the APS must not be seen as a policy priority for one side of politics or the other, but as central to the preservation of responsible government and the rule of law and hence of critical importance to the Parliament and the public.

Nor is this related only to Australia’s traditions and our Westminster institutional arrangements going back to the Northcote Trevelyan report to which J. Gageler referred. A professional civil service separate from politics is an essential element of any democracy, albeit the detailed arrangements vary widely. Woodrow Wilson perhaps argued the case more eloquently than Northcote Trevelyan in his 1886 lecture, ‘The Study of Administration’. Wilson argued that the democratic principle of policy alignment with public opinion drives the need and the capacity to separate politics and 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’.

While the US has never fully adopted the Wilson view, it does rely on an apolitical, impartial and professional civil service, both federally and in each state. As do other democratic countries, each in its own particular way. There are differences in the degree of separation of administration from politics, and a perennial debate in each country about the balance between responsiveness to the elected government and ‘speaking truth to power’.

The separation of politics from administration is not just a matter of avoiding ministerial patronage and the risks of nepotism and fraud, the focus of the Northcote-Trevelyan Report. It also goes to efficient and effective management of government policies and programs, to the rule of law, protecting the public from the tyranny of the majority and ensuring impartial service delivery for all citizens.

It is no accident that the first PSA object refers to ‘serving the Government, the Parliament and the Australian public’. The APS is certainly part of the executive arm, and subject to the lawful directions of ministers to whom it owes loyalty. But it has a degree of independence as demonstrated by the APS values of being apolitical, impartial and professional. The laws it is subject to go well beyond the PSA and financial management legislation, including the panoply of administrative law enacted in the 1970s and early 1980s. And the APS serves the Parliament and the Australian public as well as the Government.

In serving the Government, the APS has two key roles: implementing Government policies and programs and providing policy advice. This is made clear in s 57 of the PSA which sets out the roles of secretaries, the first two roles being:

- 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.

Developments in public administration over the last 50 years

Like most OECD countries, Australia's approach to public administration until the 1970s followed Weberian lines with hierarchical structures, formal rules and processes, and an emphasis on particular functions and the expertise needed to manage them. Proper decision-making not only ensured consistency and reliability, but was also seen to be efficient. Government administration was largely self-sufficient, delivering public services itself and providing its own support services. It relied heavily on training and developing its own employees and these having lifelong careers in government administration. It was dominated, at least at middle and senior levels, by men.

While it would be wrong to say that there were not significant developments prior to 1970s, most scholars describe the approach until the 1970s as ‘traditional public administration’. Simply describing what the Commonwealth Public Service was doing in 1970, and what it looked like, demonstrates what a different world it was. The PMG employed the vast majority of public servants; others worked in defence factories and in veterans hospitals; there were large numbers of apprentices, and there was a day labour force involved in construction and property services. Three quarters of the workforce were at levels now classified as APS 1 and APS 2 which encompasses about 5% of the APS today. Policy advising was undertaken by a small fraction of the public service.

Sir Frederick Wheeler in the 1960s began the first serious moves to recruit graduates, but they still represented a small minority of recruits.

It was against this background that the Coombs Royal Commission into Australian Government Administration reported in 1976. It was a massive review culminating in a final report with four supplementary volumes, following publication of a wide range of major submissions and working papers from various taskforces which informed consultations by Coombs and his fellow commissioners. It concluded that:

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

Broadly, Coombs advocated 3 significant changes to the traditional model of public administration formerly used:

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

Together, these changes would make the public service more outward-looking - more responsive to the government of the day, more conscious of its responsibility to the public and more representative of the people it serves. It would be less anonymous and less inward-looking, and more efficient.

In many respects, the Coombs Report was a watershed in the shift away from traditional public administration as conducted in Australia, but it was by no means the only driver as the shift in the 1980s and 1990s to what is now known internationally as ‘new public management’ or NPM was an international one.

Important to this shift were the economic challenges of the 1970s. These challenges were perceived by many economists at the time as exacerbated by the size and inflexibility of government activity. In Australia, it is possible to discern two distinct but closely related reform agendas. The first was a broad economic reform agenda aimed to make Australia more competitive internationally, to increase productivity and thereby to increase the economic and social wellbeing of Australians. This agenda included the floating of the dollar, the progressive reduction in tariff protection, the progressive liberalising of the labour market and a macro-economic policy that set a cap on the size of government in terms of aggregate revenues and expenses. The second focused on improving the efficiency and effectiveness of government administration within the macro economic constraints that had been set.

NPM involved in number of elements that were widely adopted across OECD countries, if applied differently and at different times in each jurisdiction. Some but not all were encouraged by Coombs:

- ‘Management for results’ involving articulating program objectives, setting performance targets, reporting on results and using systematic evaluation;
- Devolution of administrative authority, particularly with respect to the use of financial and human resources within strict financial caps;
- 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
 - Providing partisan staff support for ministers.

There were demonstrable gains from Australia's NPM reforms, partly because our approach was pragmatic, not ideological, and involved steady incremental change.

This is not to deny the validity of some criticisms of NPM. The risk from widespread use of the private sector to longstanding public sector values and ethos proved real, as did the risk of hollowing out expertise in the public service. Concerns about 'politicisation' increased in the 1990s in Australia with the loss of tenure for secretaries under the Keating Government and the sacking of secretaries by Prime Minister Howard.

There were also concerns within Government and the public service by the early 2000s that NPM relied too heavily on vertical management: more emphasis was needed on horizontal management and whole of government approaches to address complex issues. In addition, it was recognised that the contracting arrangements focused too heavily on competition and not enough on collaboration. Also, while treating the public as customers under NPM did lead to improvement in some service quality and effectiveness, it tended to underplay the rights and responsibilities of the public as citizens.

Reflections such as these were occurring in many countries which had adopted NPM measures. They did not lead to rejection of NPM, but to some important modifications now widely described as 'new public governance' or NPG. Key attributes of NPG include:

- More joined up government, or whole of government;
- Some winding back of devolution to promote cross agency collaboration and interaction;
- More emphasis on effectiveness and not just efficiency including, through collaboration – 'co-production' and 'co-design' - and an increasing role for not-for-profit organisations;
- Wider networking beyond government; and
- 'Downwards and outwards' accountability to communities and citizens, complementing traditional 'upwards' accountability through the legislature.

Aspects of these have been entrenched in amendments to the PSA and in the Public Governance, Performance and Accountability (PGPA) Act 2014, with their clear references to collaboration and the strengthening of the role of the APS Commission.

While NPG has delivered improvements, some downsides are also apparent, and many challenges remain. The fact is that citizens-centred services are difficult to provide and manage: there are major IT infrastructure challenges involved and problems in designing appropriate financial controls without upsetting expectations or unduly limiting choices and personal tailoring of services. Whole of government coordination can sometimes be code for political control ensuring everyone 'sings from the same song sheet', and can promote 'group think', constraining robust expert debate. Networking may also further blur boundaries, diluting appreciation of the unique role of the public service and the importance of APS values. Also, it is evident that unscrambling the egg of devolution of public service pay and conditions is proving to be extremely difficult.

While there was discussion about excessive political control, measures taken by the Rudd Government in 2008 and reflected in subsequent amendments to the PSA seem to have had little

effect, more secretaries being dismissed in 2013 and the power of ministerial staff continuing to increase.

Lessons from this History

First, aspects of traditional public administration remain critical, particularly its emphasis on the merit principle and due process in the management of public programs to ensure fairness and proper use of resources. But the APS was too inward looking and independent, and too process oriented.

Second, for the most part, NPM delivered significant gains in Australia: greater efficiency, making the APS more outward-looking and focusing much more on results. The pejorative term, 'neoliberalism', is greatly mis-used. NPM nonetheless had downsides and there was overreach.

Third, some of these downsides have been successfully addressed through NPG developments in the last 20 years, particularly through greater collaboration. Others however have yet to be addressed - particularly the loss of capability - and some have in fact been exacerbated - particularly the focus on political control.

In its Interim Report, the APS Review takes a rather complacent view, stating:

‘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’.

This conclusion mirrors the 2010 Moran Report’s view that ‘the APS is not broken’ and ‘but it could perform better’.

My view is less sanguine. The problems identified in 2010 have not been resolved. Capability deficits remain and seem likely to have gotten worse. Reliance on consultants and contractors has increased with highly doubtful (at best) gains in value for money terms and continued negative impact on APS capabilities. Capacity for informed purchasing by the APS is also almost certain to have reduced further. And the blurring of boundaries has not been addressed. APS funding arrangements have not been fixed despite repeated expert advice for nearly 20 years about the inappropriateness of crude efficiency dividends and, likewise, remuneration policy remains a mess.

Most importantly, in my view, problems arising from the interaction of politics and administration have worsened over the last 25 years under both sides of politics, raising questions about how well the APS today is able to meet its constitutional responsibilities as so recently re-affirmed by the High Court. Balancing responsiveness to the elected government and exercising the independence inherent in being professional, impartial and non-partisan, in serving the public and the Parliament as well as the Government, is not new: it is a perennial challenge. But the ‘thickening’ of the interaction between the APS and ministers, coupled with the professionalization of politics, has changed the relationship from a partnership to one often more akin to ‘master-servant’, where the ‘master’ is not just the minister but also the minister’s chief of staff and other advisers.

The incentives for senior public servants have changed, and it should be no surprise that this has affected behaviour and capability. Controlling the public service to minimise political risk is too often given more weight than taking advantage of the intellectual capacity and administrative experience the APS has to offer. Failure to use that capacity and experience only adds to the capacities’ decline. In response, some senior public servants have tried to please their ‘masters’ in other ways, to

demonstrate responsiveness by devoting resources to more tactical and immediate support than to strategic and longer term advice. To use Peter Aucoin's term, they exercise 'promiscuous partisanship' - a willingness to go too far in supporting the elected government's political agenda and then switching when the government changes, going too far again in supporting the new government's political agenda. They presumably think this demonstrates non-partisanship, but it really just prostitutes the professional apolitical role of the APS, blurring the line between the role of the APS and that of ministerial staff and undermining the confidence of the Parliament and the public in the APS as an apolitical institution. .

Am I exaggerating, pining for a past that never really existed? I don't think so.

Just last month, Paul Tilley released his history of the Treasury, tracing the waxing and waning of its capacity and influence since Federation. He offers highly convincing evidence of the waning of recent years. One example stands out. Tilley was involved in providing a 90 page brief to the Treasurer. It had 40 different options for changing tax arrangements, some of which he said were 'ridiculous'. The briefing did not include any policy advice from Treasury as they were told that advice to the Treasurer would be provided by the office. The Treasury had become a source of information only, not advice.

No department I worked in during my career would have failed to indicate its expert view of the policy options available. Not all ministers appreciated the advice at the time, but almost every one valued the fact that professional advice was provided along with supporting evidence - so long as there was commitment to implement decisions whether following the advice or not.

As I watched the political pressures on the APS increase over the 1990s and 2000s, I thought Treasury was the most successful department in - appropriately and professionally - resisting them. Paul Tilley's book shows that even Treasury has had to adjust, with the result that its capability as well as its influence has decreased.

Where capability has most clearly been maintained and properly nurtured is in statutory authorities like the Reserve Bank, the ACCC and the Productivity Commission. This demonstrates the importance of a degree of independence. But even some authorities seem to have lost their professional independence and courage.

Justice Kenneth Haynes recently suggested that the increasing use of Royal Commissions indicated that other government structures - legislative, executive or judicial - are not working as they should. He highlighted four key attributes of Royal Commissions:

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

He contrasted these with what may be seen as the characteristics of modern political practice. Can our government structures, he asks, only deal with the immediate spot fire and cannot deal with large issues? He does not suggest government structures should replicate the processes used by Royal Commissions, but he does suggest reconsideration of the relationship between the political branches of government and the public service.

The Emerging Context: Continuity as well as Change

In my original submission to the Review, I identified different elements of the context in which the APS is now operating and is likely to operate over the next decade including:

- Technology
- The role of government and the APS
- The international context
- Federalism developments
- Interaction with third parties, and
- Trust.

A central message I tried to convey is the importance of a sense of continuity and stability as well as adaptability to change to deliver better, more responsive and more efficient public services and to improve policy advice. Taking advantage of new technologies is important, but it is a means not an end, and it is not the only challenge facing the APS. The basic role of government has not changed, but there is a growing international dimension and more sharing of responsibilities with the States. Using consultants and non-government service providers can enhance public services, but it is also vital to appreciate the value of career public servants and the expertise required within the APS. Addressing trust requires reinforcing understanding of traditional public service values and other legal requirements, and not just promoting flexibility and agility.

A Preferred Reform Agenda

The Review's Interim Report, 'Priorities for Change', released in March this year was disappointingly thin and flavoured with consultants' cliches. In our response to the Interim Report, Helen Williams and I noted that it could be argued that this in itself demonstrates some of the weaknesses in APS capability and independence that need to be addressed. Hopefully, the Review's final report is much more substantial.

Governance

I was pleased the Interim Report's first priority for change was to strengthen the culture, governance and leadership model. Significant repair is needed to re-establish the importance of the APS in line with its constitutional role as an institution of responsible government. It does not need a new 'inspiring purpose and vision that unifies the public service', but specific measures which reinforce the existing first object in the PSA that I referred to earlier.

Merit must again be included amongst the APS values, as the original principle behind a professional civil service. The way the values are expressed should also be recast to clarify the distinct role of the APS compared to that of politicians, political advisers, the parliamentary service, and other public sector employees:

- being responsive to the elected government in line with democratic principles, but also neutral or non-partisan, and openly accountable through the system of ministerial responsibility;
- being impartial in dealing with the public, and committed to serving the public efficiently, effectively and courteously;
- merit guiding all its internal workforce relationships; and
- high ethical standards beyond being subject to the law, commensurate with being paid by taxpayers and exercising public power.

Clarification of the APS values in these terms, highlighting key relationships, might then facilitate the articulation of the values of the other groups of Commonwealth employees including ministers and other politicians, clarifying both common and distinct values given their different roles and responsibilities.

The role of the APS Commissioner needs further strengthening, particularly in light of the common practice in recent decades of prime ministers appointing individuals known and favoured personally by them as Secretary of the Department of Prime Minister and Cabinet. The Interim Report does not go far enough in this regard. The APS needs a clear and separate professional head of the Service, focused on stewardship of the APS and its capability to serve future governments as well as the current one. This is consistent with the functions of the Commissioner as currently set out in s41 of the PSA. The Secretary of PM&C is the operational head, marshalling the resources of the APS to meet the requirements and lawful directions of the Prime Minister and the Cabinet.

This distinction, and strengthening the role of the APS Commissioner, requires a change in the process of appointment of the APS Commissioner. This appointment should be subject to consultation with the Parliament as now occurs for the Auditor-General.

The APS Commissioner should also take the lead role in advising on secretary appointments. My preference would be to go further along New Zealand lines where the State Services Commissioner makes the final appointments after consulting the Prime Minister and relevant minister but, given our long history, that seems unlikely to be accepted by our Parliament. If that is so, the process should continue to involve appointments by the Governor General on advice from the Prime Minister, but the Prime Minister should be required first to consider advice from a selection advisory panel led by the APS Commissioner with up to two other secretaries selected by the Commissioner, usually but not necessarily including the Secretary of PM&C. In the event the Prime Minister does not follow that advice, the Prime Minister should be required to table in the Parliament the reasons, based on merit, for appointing the person recommended to the Governor General.

Such a firmer role for the APS Commissioner should facilitate better succession management across the APS. Happily, I understand that, consistent with this, the current Commissioner has re-introduced directions requiring he or his representative to certify that any SES appointment has been made properly on the basis of merit through open competition, and without political interference.

The Interim Report suggests a stronger role for the Secretaries Board. Some clarification is needed before this is accepted. The Secretaries Board does not have any executive authority. To the extent its role is to help marshal APS resources to meet the requirements of the Prime Minister and Cabinet, executive authority lies strictly at the political level, and it is appropriate for the Secretary of PM&C to chair the Secretaries Board as it responds. To the extent the role is to take responsibility for stewardship of the APS (currently its first function set out in the PSA), the Board should be chaired by the APS Commissioner and include the heads of major non-departmental agencies such as the ATO.

The Interim Report canvasses the relationship between the APS and ministers as one element of a later priority to strengthen internal and external partnerships. This relationship is not just a partnership: it goes to the heart of the governance of the APS. Moreover, contrary to the view in the ANZSOG paper commissioned by the Review, the APS does not have a 'misplaced sense of primacy'. Yes, there is now much more scope for constructive competition of ideas and many

sources of expert advice on public policies, but secretaries are rightly identified as the 'principal official policy advisers' to ministers and the APS has particularly important attributes when advising:

- not least, the ability to draw on its experience in administering policies;
- being clearly disinterested;
- having appreciation of the broad direction and philosophy of the elected government; and
- having the capacity to see policies in one area in the context of the framework of related policies across government.

The partnership between the APS and ministers and their advisers rests on appreciation of the different roles and values, and of the degree of separation and independence.

No doubt there can be benefits in having some senior public servants seconded to ministerial offices, so long as this does not blur respective roles and values; also, it is not for the APS to press this. I always placed more emphasis on selection of the senior departmental liaison officer, ensuring the individual was amongst our best and brightest, demonstrating the capabilities the department could offer, able to direct the minister and the office to the relevant experts in the department, and having the 'clout' to ring me directly in the event of some sensitive issue arising.

The APS Review, and the ANZSOG paper, rightly emphasise the importance of clarifying the role of ministerial staff and strengthening their professionalism. This might be assisted by amending the Members of Parliament Staffing Act in respect of these staff, including specifying the values they must uphold (which should include respect for the role of the public service) and clarifying their accountability.

Missing from the Interim Report is any discussion of the appropriateness of different government structures for different functions. This is an important issue which relates to the varying degree of independence appropriate for different functions. The greater independence provided to statutory authorities is often appropriate for regulatory functions and for highly expert or specialist activities such as museums and research organisations. Even greater independence is warranted for those exercising 'integrity' functions, such as the offices of the Auditor General, the Ombudsman, the Information Commissioner and the Electoral Commissioner. These should have a special relationship with the Parliament, with appointments to head them subject to Parliamentary approval. There is also a strong case for having non-departmental agencies delivering some services, focusing more on the clients they serve than on serving and advising ministers. The recent decision to re-establish a separate agency to deliver services to Indigenous Australians is strongly supported; it would be good if in time Services Australia was no longer a ministerial department but a separate agency (or agencies) devoted to quality service delivery.

Performance management

The Interim Report rightly identifies the importance of genuine transparency and accountability as a key aspect of governance. The Prime Minister also has indicated that performance management is a priority for his Government telling secretaries in May that:

'There will be very clear targets about performance levels that we'll expect from the delivery of the public service'.

There are dangers in a blunt approach to performance management aimed solely at holding particular officials or ministers responsible for achieving particular targets, notwithstanding the benefits of clear lines of accountability. Performance management needs to embrace learning about what works and what does not, and about the resources and capabilities required to achieve desired

performance both in the short term and in the longer term. In addition to setting clear targets and publicly reporting achievement against them, there is a need as the Review's Interim Report suggests for a more systematic approach to evaluation of policies and programs that provides evidence of their efficiency and effectiveness, and of the appropriateness of the associated policy objectives. The ANZSOG papers commissioned by the Review on evaluation provide excellent guidance in this regard, reinforcing the strengthening of performance reporting required by the PGPA Act and encouraged by last year's Alexander and Thodey Report on the implementation of that Act. A more systematic approach to evaluation should incorporate:

- Requiring all new policy proposals to Cabinet to include evidence that supports the proposal;
- Requiring submissions to identify the processes by which a proposed measure is to be evaluated if agreed upon;
- Requiring all portfolios have evaluation plans agreed with Finance covering all portfolio programs and policies; and
- The expectation that evaluations will be made public.

Reinstating the capability reviews as proposed by the Review is also strongly supported. Again, the PGPA Act and last year's review provide clear direction for agencies to pay more attention to organizational capability including through the corporate planning processes which are now mandated.

Performance targets must also be commensurate with the resources the Government makes available, making even more important reform of the way agencies are funded for running costs (which I shall turn to shortly).

Capability

While the Interim Report gives priority to improving capability and talent development, it is disappointing in its limited analysis of current skills, trends in careers and future skills requirements. Nonetheless, I believe it is right to draw attention to the evidence of capability lost in recent years and to emphasise the importance of specific expertise, not just service wide generalist skills.

The proposed 'professions model' drawn from UK experience may help to give priority to expertise, reinforcing the importance of professional skills and continuing education through professional networks. More important in my view is for departments and agencies to build or reinstate dedicated policy research and analysis units, and to pursue a more professional approach to corporate management and workforce planning and development. More systematic identification of the skills and knowledge required for the management of each program and for associated policy advising could also drive staff development and inform recruitment strategies. This proved particularly successful, for example, in the early days of Centrelink when Sue Vardon established a virtual TAFE within the organisation to support a systematic approach to skills development and career paths to improve service delivery.

I am not sure that mobility into the SES or middle management from outside the APS is a major service-wide problem, and suspect that individual agencies are best placed to have strategies to address such problems where they are most likely to arise, such as ensuring suitable state government experience to manage programs involving direct interaction with state responsibilities as in health, education and infrastructure.

I believe continued focus on recruiting some of the best and brightest graduates and guiding them carefully through their public service careers is likely to remain the primary avenue for ensuring the

leadership the APS needs. This may be assisted by reintroducing a modified version of the former cadetship and administrative trainee programs.

Such strategies need to be complemented by other measures to ensure appropriate diversity within the APS. The APS should never attempt to be exactly representative as it is rightly becoming a more highly skilled, graduate public service in order to meet its obligations to the public, but there is room to take further the programs aimed to increase representation of particular groups, consistent with the merit principle; these include programs to increase Indigenous employment, which need to be enhanced to ensure they lead to increase representation at more senior levels, and further action to improve employment of people with disabilities.

Operating model

In line with the Review's terms of reference, its Interim Report also gives priority to building a flexible APS operating model, but again it is very short on detail.

While seeking more flexibility, it also rightly expresses concern about the frequency of Machinery of Government changes. To help find an appropriate balance, I hope the final report sets out some ongoing principles to guide MOG arrangements, building on the 1987 reforms.

It does seem likely, though I am not an expert, that taking full advantage of new technologies will require more across-APS infrastructure and interoperability to facilitate collaboration, allow more responsive service delivery to citizens and communities, and drive increased efficiency. The Interim Report seems to be pointing in this direction with its suggestion of a 'stable spine of common digital platforms and policy frameworks', but it provides no detail.

The APS has previously been very successful in adopting new technology and transforming its operations: in the 1960s and early 1970s with the use of computing, and again in the 1970s and 1980s with the introduction of personal computers and the Internet. Each time an across APS strategy was adopted including substantial changes to HRM arrangements as well as investment in hardware and software. The impact was not immediate or overly disruptive, but over time was transformational. Similarly, I do not think the impact of new technology over the next decade need be too disruptive, but it is likely to be transformative again. Care will be needed nonetheless in managing the change. There is a long history internationally of failures from pursuing major IT projects too quickly and without sufficient appreciation of the impact on employees, the citizens involved and the third parties affected.

There is a reference in the Interim Report to the 'strategic allocation of funds', but no indication of future processes for funding agencies' running costs. After over 25 years of efficiency dividends and repeated evidence that they present serious problems particularly for small agencies, including by disguising the need to reduce the level or quality of services, it is to be hoped the final report will recommend a new approach which encourages productivity improvement while making explicit the expected impact (positive or negative) on service levels or quality, allowing proper accountability respectively of the Government and the public service. I have set out the framework I believe would achieve this, and look forward to seeing the Review's recommendations and reasoning.

The Interim Report also suggests a 'move towards common pay and conditions' but again without any detail of how this might be achieved. Again, replacing the current method of setting pay and conditions is long overdue. It bears no relation to the way labour markets operate, and it involves extraordinary transaction costs. It is entirely likely that many public servants are overpaid, and many underpaid. Enterprise bargaining based on the APS as a whole rather than a series of

separately operating enterprises, would facilitate a proper and consistent process of market comparisons, and ensure consideration of total remuneration including superannuation.

It is also important to revisit secretary pay arrangements. The Remuneration Tribunal is right to use market comparisons, but it uses the wrong comparisons; it also measures work value in ways that are not consistent with public sector practice (including the standard practice of moving secretaries across portfolios from time to time). Changing the membership of the Remuneration Tribunal might ensure its processes are better attuned to public sector reality.

Other important aspects of the future operating model are touched upon in the Interim Report under the heading, 'Partnerships'. Particularly important, but not clarified in the report, is the architecture needed to ensure what it refers to as 'seamless services and local solutions, designed and delivered with states, territories and other partners'. The Government's announcement to change the Department of Human Services to Services Australia, and to draw on the experience of Services New South Wales, indicates strong interest in pursuing this agenda. But the devil will be in the detail. The services the former DHS delivers are very different to those delivered by Services NSW.

For services that need to be delivered physically or in person, the architecture of local and regional delivery will be critical. There is a long history of exploration of this issue, including before, during and since the 1976 Coombs Report. Over the last decade, significant work has been undertaken in health to develop a shared Commonwealth-State approach to regional networks; more recently, considerable effort has been made to improve infrastructure investment through State city planning frameworks and city deals with the Commonwealth. It is to be hoped that the Review's final report sets out some of the principles for effective and coordinated local and regional services delivery.

Also important to the architecture of delivery of personal services is the balance between delivery by APS employees and delivery by contracted non-government providers (whether for profit or not for profit). The public needs to be confident not only in the efficiency and effectiveness of service delivery but also that the delivery is consistent with public service values including fairness and inclusiveness, and that the services are delivered equitably to all Australians. In some cases, this strongly suggests delivery by APS employees; in other cases, some direct involvement by APS employees may still be advisable to retain direct interaction with the public and to retain capability in the APS.

Benefits for the Government, the Parliament and the Australian public

Whether the Government favours a broad or limited role for the Commonwealth government, it needs a high quality APS. I have heard too often the view that the current relationship between ministers and the APS 'works for ministers', and that a more independent civil service offers more political risk than benefits to ministers. My suspicion is that this is more often the view of ministerial staff than ministers themselves. A government genuinely determined to improve services to Australians and to pursue policies in our long-term interests should value a highly capable civil service.

The Parliament also relies critically on a high quality APS, confident in its professionalism and impartiality, and its capacity to serve future governments as well as the current one. It also expects the APS to meet its accountability obligations, supporting ministerial accountability by proper non-partisan reporting to the Parliament and responding to questions. Whether Members are 'progressive' or 'conservative', they should value the Constitutional role of the APS in our system of responsible government, and appreciate the need to get the governance arrangements right.

In the end, the APS is the public's service, not the Government's. The elected government is certainly responsible for defining the public interest in terms of its policies, but the APS is critical to delivering on the public interest, both through service delivery that is impartial, available to all citizens and responsive to their needs, and through policy advising that is professional, looks to the long term, takes into account the full breadth of its experience, and is not partial to any sectoral interest.

Conclusion

I sincerely hope the APS Review generates some real and lasting reforms. There are serious problems that urgently require attention, as well as new challenges almost certainly requiring significant and possibly transformational change in the way the APS delivers programs and offers advice.

I'm also hopeful that, on reflection, the Prime Minister takes a broader view of the important role of the APS that goes beyond service delivery and implementation of Government policies, to encompass strategic policy advice that is taken seriously. No doubt the policy challenges the Government will face, including those the PM has already flagged regarding the economy and global uncertainties, will require careful consideration drawing on expert public service advice. Investing in the capability the APS and nurturing it as an institution is a particular responsibility of any Prime Minister, as John Howard said in his 1997 Garran Oration:

‘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.’

Finally, let me underline again the importance of the APS as a constitutional institution. The recent High Court decision conveys that with careful legal reasoning and an appreciation of history that has so far been missing in the consultant rhetoric of much of the APS Review documentation. This constitutional role demands stability and continuity, counterbalancing the undoubted importance of flexibility and innovation as the context in which the APS operates changes and new challenges and opportunities emerge. Functioning properly, the APS and the broader public sector not only deliver important public goods and services and address market failures, but they enhance the capacity of the economy to grow and deliver improvements in economic and social wellbeing of all Australians. Protecting and nurturing the APS is vital.