

Submission on National Integrity Commission

SUBMISSION TO

SENATE SELECT COMMITTEE ON

A NATIONAL INTEGRITY COMMISSION

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EXECUTIVE SUMMARY

My original submission on this subject (1) noted that, over time, Australia's traditional governance mechanisms have been eroded to the point that most have been 'switched *OFF*', opening the door for incompetence, misconduct, maladministration and corruption to take root and flourish. Establishing a National Integrity Commission (NIC) would not redress this situation, as such a body would only look at random references, after the event, and would not get to the largely common, underlying causes behind the widespread failures of good governance within Parliament, Government, and the Australian Public Service (APS) Executive. Such a construct would certainly not provide an appropriate, long-term and self-policing solution to the governance problems that enable incompetence, misconduct, maladministration and corruption to flourish.

This submission will now concentrate upon the causal factors that are common to most public enterprises, both State/Territory and Federal, and to Commissions and other quasi-judicial bodies. As most problems seen are related to the declining ability of our Public Service to provide informed and sound advice to Government and Parliament, and a failure to implement policies within time, cost and capability/quality requirements, the role and performance of the Public Service will be central in this analysis.

Analysis indicates that Australia's Public Service (APS) has reached the stage where it is unfit for its intended purpose, and requires a root and branch review and major restructuring to fit for the challenges of today and into the a future embedded in technology. This situation is compounded by the inability or unwillingness of Ministers, Governments and Parliament to recognise this and hold the APS accountable.

However, the problems identified with the administration of public enterprises need to be seen in their wider context, as failures in good governance spread well beyond the APS, so that the re-imposition of good governance needs to reflect this wider context.

Three guiding principles are critical to the success of any reform:

- The APS must move from its administrative, process - driven approach and return to functional management of public services.
- The APS must be re skilled so that it possesses the skills and competencies required for the efficient, effective and economic management of its specific functions.
- Traditional governance systems must be switched back *ON* at all levels to ensure that cases of incompetence, mismanagement, maladministration and corruption are

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identified and corrected promptly. In short, to ensure that the risk of detection makes the risk not worth taking.

Only after effective governance mechanisms have been switched *ON* will the need, if any, for a National Integrity Commission be determined.

INTRODUCTION

My original submission (1) provided an overview of the failure of Australia's governance systems, which has provided opportunities for incompetence, misconduct and corruption to take root and flourish. A review of media exposures over time indicates that the ability of Federal and State/Territory Governments to plan and deliver major, and even minor, public programs to time, cost and requirement has continued to decline over the past two decades or so, and that this trend seems to be increasing. However, the ability of governments to achieve their objectives relies primarily upon their Public Service, as they provide government with the information need for the planning of programs and are responsible for implementing programs to schedule, cost and requirement. That both tasks have long been beyond the APS is beyond question (2).

At the same time, there has been a rapid growth in Federal and State/Territory Public Services numbers, pay scales and conditions, especially superannuation, which increases in lock step with wages. Although Public Service numbers often vary as governments change, Public Service growth has increased steadily to now reach a record 6% of GDP (\$6.1bn).(3)

Australia is thus faced, on the one hand, with a marked decline in the ability of its Public Service to provide well grounded and dependable advice to government and provide efficient, effective and economic program implementation, and gross Public Servant increases in numbers, conditions and costs on the other.

No private enterprise could countenance such an imbalance, and remain in business. Successive governments, however, have stood by, seemingly supporting, rather than halting this trend.

This submission identifies the major factors behind the failure of Australia's current Public Service Organisation, and identifies avenues for redress.

MANAGEMENT IN THE PUBLIC SERVICE

To quote from my original submission:

“But the Commonwealth doesn't do much evaluation of programs. Apart from the fact it requires resources and they can't afford it, the underlying belief is that the market is properly

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framed and the prices are being set by the market, so there is nothing to evaluate. Citizens do as best they can in the marketplace and the only worry is corruption. People are cogs in a machine where you set up the markets, arrange for prices to be set and that's it until another tender." (Terry Moran, former Head of the PM&Cabinet Dept)

This concept of how to go about obtaining public goods and services is fundamentally flawed. It is defeatist, as it leaves no room or *NEED* for the Public Service to develop the skills and competencies, technical and managerial, that are critical to being able to specify requirements fully, evaluate what the market has to offer, identify, qualify and quantify risks, evaluate competing proposals and negotiate costs, select that which best satisfies requirements, raise and manage contracts, and ensure that requirements are delivered to planned time, capability and cost requirements. The current concept is thus designed to fail. Simply advocating "get a tender" and then move on is a 'hands off' approach that leaves itself wide open to incompetence, mismanagement and corruption.

While the skills and competencies required for success have become more critical as the technology content and complexity of a project increase, achieving them and building on them have fallen victim to failures in Public Service administration driven by government outsourcing policies, as:

Outsourcing = Loss of critical core competencies (4)

(Which only makes getting things done increasingly more difficult)

The grossly expensive Information Technology failures of the past two decades provide a good case study of this principle, but other examples abound (2).

A second policy decision that acts against required performance in the APS is the inevitable result of a decision taken in 1964, which stated:

"...policy advising and top management is a distinctive and integrated function and even where a top management position does have a professional or technical content the choice of occupant should, in a high degree, be on the basis of administrative and/or managerial abilities."

In short, senior Public Service Executives need have no expertise in the area they are responsible to administer. This may explain, in part, why Secretaries and Senior Executives are not being called to account for failed programs and cases of gross incompetence, mismanagement and corruption.

Finally, while some responsibility for the situation that has evolved must rest with Ministers, Government and Parliament, Australia's critical need is for a demonstrably competent public service, able to provide sound professional advice and guidance, and capable of implementing policies and programs, whatever government may be in power at the time. The

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Public Service must thus be apolitical and concentrate upon its primary responsibilities to the Public, rather than their own wellbeing, or to some fashionable social movement of the time.

SCOPE OF THE PROBLEMS

The problems now seen in Australia with increasing incompetence, maladministration, misconduct and corruption have evolved over time from the effects of four major events, which are outlined at Attachment A. These effects evolved largely from the following changes:

The 'Age of Deregulation': Following Australia's tariff reforms, regulatory mechanisms were severely pruned. However, wittingly or unwittingly, the opportunity was taken to also turn down or turn OFF Australia's traditional governance mechanisms. The managerial control loops that had long existed were thus broken, leaving the way open to the problems seen today.

The 'Age of Privatisation' (6): This was the age when a loss of faith in public management resulted in an unjustifiable faith in private enterprise to provide traditional utilities and other services more efficiently and economically. However, over time, the exact opposite has been the case. Experience has also shown that:

- Utilities were sold far too cheaply.
- The privatisation regulatory systems have been very poor, resulting in sharply rising prices and substantial damage to the national economy, all passed back to the customer or the public purse.
- The Agreements entered into often carried a public guarantee against the private enterprise not achieving specified profit margins. Deteriorated or damaged infrastructure also too often remained a public liability.

Privatisation must thus be judged as a failure.

The 'Age of Outsourcing Public Functions' (4): As covered in detail in this submission, Outsourcing = Deskilling, with all the problems that have been identified.

The unforeseen consequences of these 'Ages' have been widespread, including:

- An embedding from about 1990 in both public and private enterprises, but more so in public ones where accountability is largely avoidable, a major change in concept as to how to run a nation state. Economic management and national security have long fallen victims to this shift.

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- A failure of Governmental bureaucratic ‘Leadership Groups’ to recognise, let alone to grasp, the realities surrounding their functions, choosing to follow their own self-serving perceptions and imposed or perceived political imperatives instead.
- An intrusion of minority-driven, cultural change programs that have replaced the core skills and competencies base required for the success of public enterprises. (7)
- Money and political power have been allowed to deflect the Nation’s moral compass, with the national interest often driven by our too-ready acceptance of United Nations and European Union socialist agendas.
- A strangle hold of APS unionism on government departments, allowing them to intrude unchecked in pursuing social agendas with no regard for realities and scant regard for the widespread damage being done to the national interest and the national moral compass.

UNDERLYING CAUSES BEHIND PUBLIC SERVICE FAILURES

There are three major causes behind the failures seen over the past two decades:

- Firstly, the structure and culture of the APS that stemmed from the widespread Hawke/ Keating APS ‘reforms’, when many ‘blue-collar’ workers were made redundant as a result of the lifting of tariffs and the subsequent loss of many manufacturing industries. This was redressed by changing the APS structure to include a Senior Executive Service, providing excessively attractive conditions of employment and shifting responsibility for APS governance oversight. These APS ‘reforms’ may be seen as being driven by the need to make up for the loss of ‘blue collar’ votes. However, the governance oversight and accountability of our rapidly expanding APS has become increasingly ineffective from that time, under governments of both persuasions.
- Secondly, while much is often touted about the “Business Models” now adopted by the Public Service, accompanied by a resulting ‘need’ to keep SES remuneration in line with their private sector equivalents, such claims are misleading. The long list of APS failures indicate clearly that there is no effective business management model to be seen, only Public Service Administration which does not comprise any of the business systems, procedures, disciplines and accountability present in competent private sector enterprises. Furthermore, APS administrative organisations seem designed in such a way that accountability is so diffused that it is avoidable. In particular, Secretaries and SES personnel are free from any Shareholder or Board of Management oversight, and from any accountability for poor performance, so they may hardly claim equivalence with private sector enterprises. Their programs may

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fail miserably, and at horrendous cost, but nobody is being held to account while ‘performance’ incentives are still granted.

- Thirdly, Governments keep highlighting the critical need for Science, Technology, Engineering and Mathematics (STEM) subjects and Innovation to become core competencies in our increasingly technology-dependent world, but at the same time they have allowed our education system to retreat from these objectives at all levels. In particular, Government Departments have been busy, over time, flushing out any who possess critical competencies, and replacing them with incompetent, but cheaper, public service staff. The prime case study in this practice relates to the Department of Defence, which stripped the Services of their more than 70 years of hard won technological and operational expertise during the Defence Reform Program, which was then followed by a major purge during the mid-1990-2002 period when highly competent capability development and acquisition and sustainment staff within Defence (both service and civilian) were replaced by non-technical people following standard APS ‘business’ (contract centric) administrative processes. This policy is now again in train with Defence purging further technological and operational pockets from the organisation while increasing its dependency upon consultants and contractors (Attachment B).

ADMINISTRATION VERSUS MANAGEMENT

Public Sector enterprises are driven by Administrative Process, which aims to reduce tasks to a number of simple activities that may be undertaken by low skilled (and thus lower paid) administrative staff. Tasks are reduced to a “Go” or “No Go” often subjective decision so that the status of a task may be measured by a ‘check list’ – a ‘tick the box’ approach under which tasks are judged as ‘pass’ or ‘no go’, irrespective of their individual complexities. Administrative control is thus process - orientated, and very rarely acknowledges the functional objectives of the organisation or those who task it.

The deskilling that accompanied the shift to ‘process’ soon resulted in a public service that was constrained to *‘tell the politicians what they wanted to know, not what they should know’*, because the now de skilled APS organisation did not know what the politicians should know.

Australia’s Department of Defence, for example, has, since the early 1980s, been promising to design and implement a single and completely integrated chain of administrative processes that will cover all aspects of the administration of Defence functions. The result to date has been counter-productive and unacceptably costly in effort, resources and capabilities. (6) That this path has failed over the past 44 years is reflected in the unbroken flow of Defence reviews, inquiries and National Audit Office Reports that have been undertaken, all to no material effect. In particular, Defence has failed to understand that many of the functions it

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has outsourced are competencies critical to Defence being able to manage outsourcing competently – that is, they are not able to be outsourced. Outsourcing them simply announces to all suppliers that Defence is far from being a ‘Smart Buyer’ and is passing the ‘whip hand’ to the supplier who will determine what the customer will get and at what price.

Management, on the other hand, is a well – proven structure that follows four simple steps, and embeds accountability at all stages of management. These are outlined at Attachment C.

CONCLUSION

As the opportunities for incompetence, maladministration, misconduct and corruption opened following the short-sighted deregulation, privatisation and outsourcing of traditional public functions, Australia’s traditional governance systems were progressively turned down, with most switched *OFF*. The accompanying shift from functional management to administrative process that followed has proven to be totally inadequate and not meeting the needs of government. As a result of these two major changes, Australia’s once highly competent public service has become unfit for purpose. It is over staffed, has over attractive conditions, is underperforming, and a cost burden (both directly and indirectly) that is no longer acceptable.

The principal tasks that need to be faced to redress this situation are:

- Abandon the administrative process methodology that has evolved and return to a functional system of management.
- Ensure that government departments possess the skills and competencies required for the efficient, effective and economic management of their functions. This would also greatly reduce the need for departments to be reliant upon consultants/advisors and contractors.
- Switch *ON* our traditional governance systems at all levels, as these are designed specifically to detect and correct cases of incompetence, mismanagement, maladministration and corruption as they occur. In short, they ensure that all are aware that the risk of being detected makes the risk not worth taking.

It is only after these actions have been taken and proven to be effective that any need for a National Integrity Commission may be identified.

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References:

1. E.J. Bushell, "Submission to the Inquiry into the Establishment of a National Integrity Commission", 16th April 2016.
2. The following are only a small example of recent media articles on public projects:
 - a. *"ICAC debate fails to focus on deterrence against corruption." This noted that ICAC corruption findings have no immediate legal ramifications, with individuals found corrupt not being automatically prosecuted by the DPP. In summary: 'Australian anti-corruption agencies must focus on making corruption a high-risk and low-reward activity'.*
 - b. *"Push for corruption watchdog as nation stops making progress."*
 - c. *"Government's lawyer bills up 8.8% to \$792m."*
 - d. *"\$5bn for the Murray - Darling Basin Plan goes down the gurgler."*
 - e. *"\$1.2bn con – Australian Institute of Criminology Report."*
 - f. *"\$5.9 bn/year fails to close 6 of 7 indigenous targets."*
 - g. *"Rushed education scheme a mess."*
 - h. *"Canberra faces huge surge in NDIS costs".* (This followed a report of further increases in the cost of the NBN.)
 - i. *CASA cans its Internal Ethics Unit."*
 - j. *Several reports of large cost, schedule and functionality/quality failures with major hospital projects.*
 - k. *Continued roorting of the Federal Government's outsourcing of educational services.*
 - l. *"CAC (SA) broadens probe into Public Trustee Office's practices, policies and procedures to help prevent or minimise corruption, misconduct and maladministration." This followed a string of reports on defective CASA management, including 'Profit before safety as CASA delays new rules'.*
 - m. *"PM warned on 'corrupt' indigenous tenders. A policy designed to reward indigenous business owners with easier access to government contracts is instead*

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exposing taxpayers to fraud and corruption, including serious misconduct by public officials.”

3. The following are only a small example of media articles on the APS:
 - a. *“15 SES Executives take home over \$1m.”*
 - b. *“States and Territories Public Servants will pass 1.5m with the wages bill growing at twice the rate of inflation, and well above the Private Sector.*
 - c. *New breed of Public Service Super Executive, the birth of the Senior Director (EL2) in the Immigration Department; members of the SES in all but name.”*
 - d. *“Escalating differences between Ministers and Secretaries salaries. SES matching increases in the Private Sector.”*
 - e. *Public Service cost to hit record 6% of GDP (\$6.1bn).”*
4. E.J. Bushell, *“The Widespread Consequences of Outsourcing”*, (<http://www.ausairpower.net/APA-2010-03.html>)
5. *Final Report, Foreign Affairs, Defence and Trade References Committee Inquiry into Procurement Procedures for Defence Capital Projects.*
6. J. Menadue, *“The Litany of Failed Privatisations”*, johnmenadue.com/?p=9802 ,
20 March 2017.
7. *Defence Annual Review 2013-14, Page 113.* Defence is now driven by real needs and bureaucratic interpretations of these needs that are driven by political imperatives which see real needs through a prism of the votes involved. This has been clear with government local Defence Industry decisions relating to what work will be done where, and how defence work may ‘kick start’ Australia’s high tech, innovative rebirth. However, this morass of input by people lacking in the skills and competencies needed to ensure sound and realistic outcomes and bereft of good governance will only guarantee failure. This appears already assured with the Submarine Project which has no critical competencies on its Shipbuilding Panel and a Draft Agreement that leaves Australia holding the risk.

ATTACHMENT A

**THE DILUTION OF CRITICAL COMPETENCIES:
TIMELINE OF FRAGMENTATION OF CAPABILITY DEVELOPMENT,
ACQUISITION AND SUSTAINMENT – POST 1990.**

| Major Factor | Impacts |
|---|---|
| 1. End of ‘Cold War’: | <p>Collapse of Communism in East Europe and the USSR, causing a vacuum:</p> <ul style="list-style-type: none"> • Capitalism and consumers the winners. • No need seen for regulatory mechanisms (Age of deregulation). • Free trade flourished. • Globalisation. • Rise of China and India. • Global Financial Crisis and inability to cope with it. Problem still evolving and growing. • Passing of Germany and Japan strengths. • NATO’s growing weakness. • Revival of Islam. • 11 Sep 2000 attack on New York. |
| 2. Western world states unable to take difficult decisions in an emergency: | Unable to institute effective and timely action. |
| 3. Most major shocks not normally foreseen: | Where shocks foreseen, warning ignored. Where unforeseen, unprepared for their speed and unpredictability. |
| 4. Modern political system deficiencies: | <p>Modern political systems rely upon three conditions:</p> <ul style="list-style-type: none"> • Maintaining a strong state. • Ensuring the rule of law. • Ensuring accountability. <p>(All bound together by high ethical standards)</p> |

Ref: “*The Origins of Political Power*”, Fukuyama and Francis.

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ATTACHMENT B

CANBERRA TIMES - LETTERS TO THE EDITOR

The following Letters to the Editor were published recently in The Canberra Times:

Rebuild while we can:

“I was interested to read recent comments relating to how the Defence Secretary Mr Richardson was going to be a mongrel with the Defence Technical staff and how there has been an increase in the use of contractors and consultants.

There is nothing new in what has been written recently in relation to the over use of contractors and consultants.

I worked in Defence for 42 years, 37 years in Canberra in the technical areas. Believe me, up to and many years before these recent articles, the racket of taking on contractors instead of in – house training of good technical staff and engineers to do many of the complex tasks (was prevalent).

Many of these contractors are ex-Defence technical staff or ex-military officers who know somebody within the organisation. Money that is paid to contractors comes out of a separate bucket and is not taken into account when costs for APS staff are.

Defence dismantled the engineering side to the point of crisis.

I call on Mr Richardson to rebuild engineering in Defence before it is too late.”

Ken Barrs, Stirling.

1st March 2017

Defence Engineering Staff:

“The remarks by Ken Bars in his letter (Rebuild while we can, 1Mar17) about the problems in Defence, are spot on. In particular, the clerical types in Defence started in the mid-1990s to dismantle the engineering expertise in the APS and to minimise the number of military engineers in Defence HQs. I was there at the time. Since then, Defence quickly deskilled its technical workforce to the point where, for many years now, it has not been a “knowledgeable buyer”. Clerical bean-counters and contracts officers are no substitute for technicians when it comes to buying technical equipment. The net result has been that, not only have there been more consultants used, but ‘suppliers’ now hold the whip hand on what Defence will actually get, at whatever price they demand, as often as not. The Secretary of Defence should also have a real hard look at the motivation of his APS staff, as to whether they are more interested in empire building and getting promoted than in the vital role of defence capability for the security of the nation,”

Max Flint, Erindale

1st March 2017

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Lingering mistakes:

“It is not only Defence (Ken Bars, Letters March 1, M. Flint Letters March 2) that is de-skilled. In the mid-1990s our son was fresh from university with a newly minted engineering degree. He soon found himself responsible for information technology (IT) in a government department.

As he told it, the department had been forced to make IT staff redundant. The redundant staff immediately set themselves up as contractors to the same department.

They are making two to three times their former salary, and doing very little. However, no one in the department, except our son, understood what the contractors were up to. The contracts had been drawn up and let by people with little technical understanding, leaving him with no authority to enforce useful deliverables.

In order to prevent permanent damage to his moral compass, he soon left for an IT job in London.

When I read about technical problems at Centrelink, at the ATO, at Defence, I just nod my head and think “that sounds about right”. De-skilling mistakes made two decades ago have still not been fixed.”

Bruce A. Peterson, Kambah

3rd March 2017

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ATTACHMENT C

THE BARE BONES OF MANAGEMENT

Management, as opposed to Administrative Process, is a well-proven practice that follows four simple steps.

When the Functions of Management and the Elements which comprise those Functions are listed, it will be seen that the procedure is logical and progressive, and will be consistent throughout all levels of the organisation.

The Functions of Management consist of:

PLANNING:

Which:

Defines the Purpose. (The organisation's objectives)

Measures the task. (Identifies what is needed to achieve the objectives)

Calculate the resources. (Calculate the resources needed.)

Arrange Resources. (Marshals the resources needed.)

ORGANISING:

Which:

Defines the organisational structure.

Obtains/distributes resources needed.

DIRECTING:

Which:

Defines and allocates tasks.

Delegates authority.

Motivate the organisation.

Identifies lines of communication.

Ensures lines of coordination.

CONTROL:

Which:

Measures achievement.

Measures Effort.

Compares performance with plans(s).

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The four overriding requirements that must be satisfied by the Principles of Management are:

- Clarity of purpose.
- Economy of effort.
- Maintenance of morale.
- Accountability.

Accountability is monitored continuously through the Control Loop, so that any departures may be identified and corrected before damage is done. Corrective measures may range from tighter supervision, counselling, changing procedures or disciplinary action.

While unstated, all successful management organisations ensure that there are competent people at each of the functional levels – people who know what they are doing and are able to foster the skills and competencies of those under them, as well as motivate them and lead them as role models.