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The role and activities of the public service

5.1 Introduction

Recent speeches made by public service heads point to a need to reskill the public service, to think in terms of systems (rather than piecemeal), to look beyond economics for policy advice, for the public service to acknowledge that it ‘endures’ beyond governments, that it needs to look ‘over the horizon’, and, have regard for ‘the national interest’. As auditor-general for Australia, Ian McPhee pointed to ‘soft spots’ including monitoring and responding to change, getting lost in the weeds, and performance measurement for programs and outcomes (McPhee 2015); and his successor points to a continuing need to use a series proxies by which to assess an entity’s outcome-based performance in the absence of good quality performance information and data despite three decades of audit and change (Hehir 2016).

In this chapter, I focus on the public service, examining the *Public Service Act 1999*, which established the Australian Public Service (APS) and prescribes its role and conduct. Along with (market) context and the institutional setting, the Public Service Act and how it plays out are the key factors in shaping the contribution of the public service to good government. The impact of the Public Service Act invites consideration of the boundaries to this contribution, in terms of its domain and what it can

offer within this predetermined field of play. I draw a distinction between what might be in the interests of the APS (as an effective organisation), and what might be in the public interest.

The drafting of a public service act can impact on the contribution of the public service in a number of important ways. First of these is the description of the field of play and the role to be played by the public service. For example, the Public Service Act prescribes an important part of the role of departmental secretaries as principal official policy adviser to the agency minister. If the field of play envisaged here is policy advice, then the public service (department secretarial) role is limited by the provision for other official and non-official sources of policy advice. The second way in which a public service act can impinge on the public service contribution is through the prescription of its organisation and resourcing. The third way is the manner in which it both provides for, and protects, the provision of sound advice. Fourth is the behaviours of key players enabled by the Act. Further, there is the question of intent that lies behind such an Act and which, in operation, can transcend the impact of individual clauses: this might be considered in both stated and real terms. Finally, any such Act is likely to contain important implications for the processes of government, and the organisational culture that results.

In discussing the contribution of the public service to good government, it is useful to distinguish between public service performance and contribution. Clearly, the framing and drafting of a public service act will determine the limits to the potential contribution of the public service to good government. It does this by (a) circumscribing the field of play; (b) establishing the rules of play within this field; (c) creating mechanisms for enforcement of these rules; and (d) through the underlying 'spirit of the game' embodied in the legislation.¹ The public service then takes this description of 'the game', with its embodied contribution limits, and performs more or less successfully. A more expansive Act might permit a larger contribution, while a less expansive one might limit this contribution further. In any event, the public service should only be held to account for what is within its control. Viewed in this

1 The Public Service Act also provides for the APS commissioner to issue a wide range of directives on a whole-of-public-service basis and with the status of legislative instruments in the matters of employment, values and code of conduct breaches, and undertake an equally wide range of investigative activities, in his/her own right, upon request from the prime minister or public service minister, and on referral from departmental secretaries, and make recommendations accordingly. See especially clause 41 of the Act.

way, a high-performing public service could be one making a small or large contribution to good government in Australia depending on the constraints and its performance within those constraints.

The first part of this chapter examines the structure and philosophy of the Public Service Act, the Australian Government's primary legislation towards the APS, and includes a brief discussion of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The focus of this chapter is on the former, which is a dedicated Act involving the establishment and management of the APS, whereas the PGPA Act is a whole-of-public-sector piece of legislation establishing public governance requirements for all defined 'entities', including government departments. With regard to the former, the chapter considers its major clauses and the impact of the Act on the performance and contribution of the APS and the changes that could be made in the public interest. These changes can be conceived in three parts: corrections to the inadequate initial drafting of the Act, changes necessitated by the passage of time since the drafting of the last Act, and philosophical changes to the Act. Some could be attributed to a combination of these factors.

It is useful to be mindful of the impact of the Act on the public service as influencing a three-part structure: *leadership* (determining what to do and how to do it), *management* (resourcing and organisation of the business), and *operations* (systems and behaviour). These distinctions are important in the public sector, no less than the private sector, because of the impact on organisational behaviour and performance of the leadership of any organisation and the structures through which this leadership is delivered.²

The Public Service Act focuses on the notion of 'serving' the government, the parliament, and the Australian public, describing primarily through its values and code of conduct how this service should be provided, without trying to identify its outcomes. The ultimate outcome – at least in terms of the government's performance – might reasonably be considered as conducted at the electoral ballot box, whilst there are no systemic indicators of the performance of the public service, and few even partial indicators. Those that I have considered, suggest that there may be substantial room for improvement.

2 I maintain this typology of organisational activities throughout the book but leave the thorny issue of the distinction between leadership and management until later in Chapter 5.

The relevant question here is: given a clean slate on which to redesign the public service, what would a public service that would best serve community interests look like and how would it change from its present state? This question necessarily raises the question of ‘the public interest’, what it means and how it can be judged.

The notion of ‘the public interest’ is another of those rarely defined terms that is used to justify a wide range of actions. There is, of course, the simple view that only ‘the public’ knows what is in the public interest and that some form of plebiscite should be undertaken on all important matters. And it is arguable that a detailed general definition does not serve any useful purpose – because of great variability in circumstances and that, at best, a framework of matters for consideration on a case-by-case basis is most useful.³ In applying the concept of public interest to prospective changes to the role and operations of the APS, I propose that, in practice, it requires a balancing of winners and losers. In much of what follows ‘the winners’ may be seen to be the public service and ‘the losers’ the politicians. My interest, however, lies primarily with ‘the Australian public’. The welfare of either or both of the politicians and public service may be necessary collateral damage in achieving change ‘in the public interest’.

5.2 Defining the public service role

5.2.1 The legislated framework

5.2.1.1 The provisions of the *Public Service Act 1999*⁴

A discussion of the role and activities of the APS must start with a clear understanding of its goals. The role of the APS is defined in the Public Service Act and further clarified in the PGPA Act, which focuses on the activities of public sector entities, adding some useful embellishments. The following focuses on the objects of the Public Service Act and primarily the parts of the Act addressing the roles, responsibilities, and functions of departmental secretaries, the Secretaries Board, and the APS commissioner. The key clauses of the Act are set out in Table 5.1.

3 Chris Wheeler’s discussion of the issues argues for a case-by-case approach built around the distinction between the concept and its application (Wheeler 2013).

4 For a detailed discussion of the tortured path to enactment of the Public Service Act, see APSC (2013a).

Table 5.1 The key clauses of the *Public Service Act 1999*

Clause 3 Objects of the Act	Serve the government Serve parliament Serve the Australian public	Leadership
Clause 64 Functions of Secretaries Board	Stewardship of the APS Works collaboratively Canvasses advice widely	
Clause 57(1) Roles of Secretaries	Advise policy Manage service delivery Whole-of-public-service leadership	Management
Clause 57(2) Responsibilities of Secretaries	Deliver results Comply with the laws of the land Engage with stakeholders	
Clause 3 Objects of the Act	An apolitical public service Efficient Effective	Operations
Clause 10 Values, Clause 10A Employment Principles, Clause 13 Code of Conduct (Selective)	Is prescriptive in providing for five values and a 13-point code of conduct, along with the establishment of a safe and discrimination-free workplace for a career-based public service.	

The Act establishes the objects, a set of values, a set of employment principles (including a commitment to a ‘career-based’ public service), and a code of conduct to guide behaviours to deliver results consistent with the Act. Clause 3 of the Act is central as it sets out the objects of the Act and includes the directive to establish an apolitical public service that is efficient and effective in serving the government, the parliament and the Australian public. Critical to the establishment of an APS that meets this objective are the values required of the public service. Clause 10, which addresses APS values, is set out in full below.

Table 5.2 Public service values

(1) Committed to service	The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.
(2) Ethical	The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.
(3) Respectful	The APS respects all people, including their rights and their heritage.
(4) Accountable	The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.
(5) Impartial	The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.

Clause 10A provides for a career-based public service, recognises that the usual employment is to be ongoing, incorporates the usual provisions for equity and merit in employment and promotion and provides for a safe, discrimination-free workplace. In turn, clause 13, relating to the Code of Conduct, includes requirements to behave honestly and with integrity, act with care and diligence, show respect, maintain confidentiality, avoid conflict of interest, not provide false or misleading information, and, when overseas, behave in a manner at all times that upholds the good reputation of Australia.

It is clause 57 that offers an understanding of the role the Act requires of the APS. This clause deals with the *role* of secretaries, who head up the government departments – this role comprises that of (a) principal official policy adviser (to the agency minister), (b) manager ensuring delivery of government programs and collaboration within the minister’s portfolio and with other secretaries across the whole of government, and (c) leader providing stewardship within the department and in partnership with the Secretaries Board across the APS. The role of secretaries is specifically drafted to be limited to these three functions, although there is a mechanism for change.

The *responsibilities* of secretaries are set out in clause 57(2) (sub clauses (a) to (j)), which spell out the detail of the secretarial role. This detail includes: maintaining clear lines of communication within the agency minister’s portfolio, ensuring the agency minister’s portfolio has a strong strategic policy capability, and assisting the agency minister to fulfil his/her accountability obligations to parliament. Clause 57 also includes agency stakeholder engagement (which embraces ministerial, departmental, and portfolio activities), and addresses the leadership and management of the department (efficient, effective, economic and ethical); compliance with the laws of the land consistent with Commonwealth policies and the interests of the APS; and provision of strategic direction, leadership, and a focus on results for the department.

The Secretaries Board sits at the top of the public service structure and its functions, set out in clause 64, comprise: (a) stewardship and improvement of the APS; (b) the identification of strategic priorities for the APS; (c) the setting out of an annual work program including the direction of subcommittees; (d) drawing advice from business, government and the community; and (e) modelling leadership and collaborative behaviours. The Board is to comprise the secretary, Department of the Prime Minister and Cabinet (PM&C) (chair), all other secretaries, the APS commissioner,

and any other parties nominated by the chair. Notably missing from the list of required activities for the Secretaries Board is a requirement to prepare and have tabled in parliament a whole-of-public-service annual report, a requirement that applies to individual secretaries and the APS commissioner (and merit commissioner) in regard to their respective jurisdictions.

Finally, the Act determines that the APS commissioner has an important role both as a member of the Secretaries Board, but also in his/her own right focusing on the development of the public sector workforce. These functions are broadly cast to include the role of partnering with the secretaries in the stewardship of the APS, ensuring that the APS is ready for future demands, and reviewing any matter relating to the APS. The APS commissioner also upholds high standards of integrity and conduct in the APS and monitors and reports on the service capabilities required to provide high standards of accountability, effectiveness and performance, and to develop APS workforce management policies. The commissioner also participates in the appointment and termination of secretaries along with important powers to undertake public service-wide reviews and issue directives. Moreover, the commissioner is required to report annually 'on the state of the public service during the year'.

5.2.1.2 *The Public Governance, Performance and Accountability Act 2013*

The PGPA Act focuses on the establishment of a coherent system of governance and accountability across Commonwealth entities (including government departments) and an associated 'performance framework'. In view of our earlier discussion of public sector performance measurement, governance and accountability, this Act is important for its aspirations. In particular, it requires departmental secretaries (the 'accountable authority') to (a) measure and assess whether the department is achieving its purpose; (b) prepare an annual corporate plan, and an annual performance statement to be attached to the annual report for tabling in parliament; (c) promote achievement of the entity's purpose and its financial sustainability (the latter is more relevant for Commonwealth corporate entities); (d) establish and maintain appropriate systems of risk oversight, management, and internal control; (e) keep the responsible minister informed of the department's activities, including any 'significant issues' that arise; and, (f) provide meaningful information to the parliament and the Australian public.

There is a strong invitation to departmental secretaries to report systematically on departmental performance through the annual report and an attached performance report, the provision of meaningful information about departmental performance, and to address the contribution of government programs and services to the achievement of agency minister's requirements of the department. There are a number of points to be made about the elements of these Acts that impact on key aspects of the public service role and its execution.

5.2.2 Key impacts of the legislated role

5.2.2.1 The public service is to serve three communities

The first point to note is that the public service is required to serve not just the government, but also parliament, and the Australian public (clause 3(a) of the Public Service Act). This may come as a surprise to many, and whilst overlap is not specifically excluded, a careful reading of the Act indicates that these are intended to be three separate communities. As spelled out in the Act, the most substantial role is that of principal policy adviser and manager of service delivery to the government of the day, and there is limited detail in the Act of public service responsibilities (a) to parliament and (b) the Australian public. There are some, however: reference to the provision of factual information to parliament in support of the agency minister's accountability to parliament; reference to an APS that is open and accountable to the Australian community within the framework of ministerial accountability; and reference to an APS that achieves best results for the Australian community and the government.

There is, nonetheless, no evidence from the drafting of the Act that these references are meant to fully describe or in any way circumscribe the role of the public service in regard to these two additional communities. Most importantly, the reference in the Act to serving both parliament and the Australian public (along with serving the government), lies squarely in the objects of the Act; this is not a throwaway line buried in the text of some detailed clause in the bowels of the Act. I interpret the subsequent references in the Act to any public service role in regard to either, more as examples than boundaries.

It can be reasonably concluded that unqualified service to the government of the day is not envisaged by the guiding Act (even after allowing for full observance of the declared APS values), and the common perception that these other communities are somehow 'served' through effective service to

the government of the day has no clear foundation in the Public Service Act. The APS clearly has other responsibilities and the Act does not circumscribe the ability of the secretaries to pursue them. This view is not acknowledged by the APSC in its briefing document *Values and code of conduct in practice*, in which it describes a tight accountability framework in terms of: governments accountable to the Australian people at elections; ministers accountable to the parliament; and public servants accountable to ministers and, through them, to the parliament for delegated authority (APSC 2017).

Public servants do, of course, deal directly with the parliament and with the Australian people. Responding to and briefing parliamentary committees (and briefing non-government members from time to time) forms the relationship with parliament, and delivery of services is the basis of dealing with the Australian people. Both relationships, however, are required to lie within the ambit of ministerial authority and both are required under the Public Service Act to comply with the APS values and code of conduct. There is no suggestion in the APSC briefing document of any direct responsibility (nor accountability for that responsibility) of public servants to the parliament or the Australian public. It is implicit that the APS 'serves' the public (and the parliament) by serving ministers and governments. This matter can also be considered in light of a more expansive interpretation of the public interest.

In interpreting the role of the public service through a distillation of public service values, employment principles, and the code of conduct specified in the Act, and the role and responsibilities for secretaries as heads of the departments and members of the Secretaries Board, a simple picture emerges of the role of the public service, as in Fig. 5.1. This figure acknowledges the three communities that the APS is to serve, and its central role of principal policy adviser and manager of the delivery of government programs. The interesting questions that remain are exactly what the Act intends in defining the different goals and roles envisaged for the public service when interacting with the three communities; what sets of circumstances were anticipated to require the public service to reconcile these differences? and, what criteria might be expected to be used in reconciling differences?

COMPETING FOR INFLUENCE

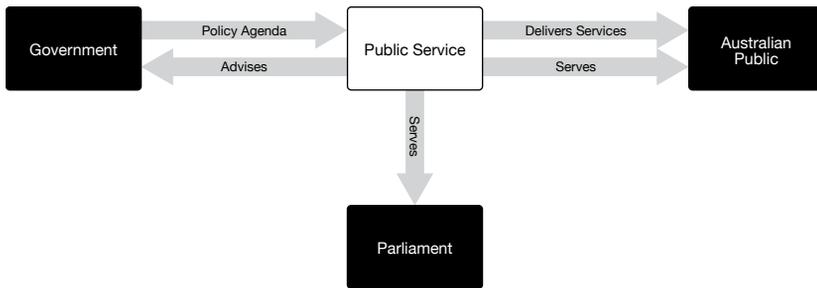


Figure 5.1 The role of the public service: the communities served

5.2.2.2 The role and goals of the public service need to be clearly stated

When it comes to a consideration of the goals of the public service in the context of the Public Service Act, it is difficult to be anything more than trite as the Act is long on processes and values/conduct/behaviours and very short on goals and outcomes (for the public service): the underlying notion is of a public service ready and willing to serve. There is, of course, more to it than that, for a public service ready and willing to serve the government of the day must of necessity take a longer-term view than the electoral cycle requires, and it is here that the presence of parliament and the Australian public in the objects of the Act makes some sense, for arguably to be ready and willing to serve an incumbent government on a day-to-day, even term-of-government basis, the public service must take a longer-term view.

This necessity is most evident in the workforce management and capability development responsibilities assigned to the APS commissioner in clause 41 of the Act, but it is also (arguably) present in clause 10 (A)(1), which states that ‘the APS *is* a career-based public service [my italics]’. Clearly, the perspective of public service leaders needs to extend beyond a term of office, even if only in regard to these matters. There are also clear invitations in the Public Service Act to the secretaries and the Secretaries Board to take an integrated view of their activities in regard to the management of individual departments and the public service as a whole, a view that has to extend past the standard three-year term of national governments to be of any value (and thereby meet the requirements of the Act).

Looking beyond the primary policy advisory and service delivery management duties assigned to the public service, to the sorts of outcomes by which the performance of the public service might be judged, the Act

contains references to efficiency, effectiveness, and innovation: ultimately, these are not outcomes in themselves but characteristics of services and associated processes that should meet any reasonable resource-use tests designed to deliver targeted outcomes. The corporate plans (for example, 2015–19) of key public service leaders (the secretary of PM&C and the APS commissioner) repeat the standard sentiments about a high-performance public service, but there is also some amplification with the business world introduced as a separate community to be served, along with the notion of a productive public service.

These latter inclusions may well ultimately be a result of advice to the incoming Liberal–National government from the last National Commission of Audit (NCOA 2014), which urged the inclusion of the word ‘productive’ in the formal requirements of the Public Service Act. This simplification could bring some clarity to the challenge as long as the term ‘productive’ were not simply seen as a supply-side (efficiency-based) concept and more in line with the notion of ‘producing useful things’. I have a fundamental objection, however, with regard to the inclusion of the business community in the set of target communities. This is based on a simple view of the role of the public service and the way in which this perceived need for a better understanding of the business community within government has played out.

As a matter of good practice, the public service must understand the environment and behaviours of the key groups of actors in the policy (and service delivery) space. Alongside this, it must equally be knowledgeable of the various relevant policy frameworks and program options around the globe, and how they might/do impact on the major economic and social actors at home. A plethora of groups within our community who contribute to our economic and social fabric have no less valid cases for inclusion in public service goals, and I have no hesitation permitting them to put their case from time to time. I note further the invitation in the Public Service Act (a) for departmental secretaries to engage with stakeholders and (b) the Secretaries Board to consult with senior leaders in government, business and the community. Properly executed, this aspect of the Act covers the relationships of the public service; making business a special case is both redundant and unnecessary.

Moreover, I cannot support this special engagement with the business community if it is another leg up for those who argue for regular exchanges of staff between public and private sectors. The intention is understandable

– to have more people within government who understand the intricacies of the major social and economic actors, ‘representatives’, of these communities within government if you like – but this is a naïve and ultimately misguided means to a similarly misguided end. It is akin to the notion that corporate boards should be comprised of ‘representatives’ of a variety of business stakeholder interests who represent interests without regard to the health of the whole organisation: this denies the common statutory responsibility of directors for the latter. And, as practised, it is certainly destructive of the notion of a career-based public service, which must lie at the heart of an effective, indeed high-performing, public service. This discussion of the content, intent, and limitations of the Public Service Act points to a number of the Act’s limitations in serving the public interest. At this juncture, it is useful to reconsider the role of the public service from this vantage point so as to be clear about the switch from what is to what ought to be – and that the frame of reference employed is defined by the question: what changes to the role and operations of the APS can be made in the public interest?

A simple statement about the goals of the public service within the existing legislative framework might start with a comment on its performance in its primary policy advisory and service delivery roles, with the foremost goal of the public service being to discharge these duties effectively, efficiently, and innovatively (or ‘productively’). Stated in these narrow terms, it is a role focused on service to the ministers and government. Nonetheless, the requirements of the Act to serve the parliament and the Australian public as well must also be acknowledged. Conflicts arise for the public service in serving all three communities simultaneously with no ready guidance in the Act as to how to resolve them. Moreover, there are other roles that the public service might play, or play better, if the role was framed by a whole-of-community perspective (public policy) rather than a Public Service Act or government one.

The Act’s heavy focus on public service conduct can be seen to be a consequence of the absence of recognition of the public service as a cohesive and independent entity driven by its own goals. This absence of role definition expressed in terms of outcomes to produce, and the focus on how to do ‘it’, is destructive of public service capability to serve the public interest. The perceived need to specify requirements for the departmental secretaries to have regard to whole-of-public-service impacts; the expressed requirement for the Secretaries Board to work collaboratively, even the necessity to establish the roles of APS and merit

commissioners; and the manner of creation of the Secretaries Board itself, can be argued to be a consequence of the placement of the department at the apex of public service support for the government, rather than placing a separate board supported by some corporate support functions at this apex.

For example, the specific requirement in clause 64(e) for the board to ‘work collaboratively and model leadership behaviours’, even the respective requirements of clauses 57(1)(b) and 57(2)(g) for the departmental secretaries to have regard to the whole-of-government and whole-of-APS implications of their activities, would be redundant for a board and head office–led public service, rather than the departmentally led one provided for in the Act. Then there is the set of values designed to steer public service–wide conduct. One might contrast this position with the sort of (public service) organisational behaviour that could be expected if goals (outcomes) were clearly stated in the Act and the APS left to largely determine how it delivered these outcomes. The Act makes the process the outcome, which is at odds with government regulation of other bodies and activities where the thrust of reform moves the regulatory focus from process to outcomes, and leaves the regulatees to determine how best to do this.

In reviewing the content and role of the Public Service Act, and having regard to the passage of time since it was drafted (notwithstanding multiple amendments), I anticipate that the Australian public (and parliament and the government) would be well served by the addition of two further elements to the three already set out in the role of departmental secretaries in clause 57 (i.e. of (a) principal policy adviser, (b) manager service delivery, and, (c) steward APS) with the important change of replacing the word ‘stewardship’ with ‘leadership’. What it is and how it might be delivered underlies much of the discussion of strategy and structure in the subsequent chapters.

The first of these is the inclusion of a clear responsibility for government governance. There are a number of elements to this proposal. The omission of governance from the 1999 Public Service Act remains puzzling, but I argue that it should be included in this Act despite its subsequent (2013) inclusion in the PGPA Act for completeness (of the public service role) because it needs greater prominence to promote better performance today, and because the changing environment within which the public service is operating will only make this challenge more difficult in future.

I also believe that a change to the Public Service Act on this count should be prescriptive about the goals and content of performance measurement to underpin improved governance (and performance). The PGPA Act is directive at a high level – of keeping financial records, of measuring entity performance, and of preparing a corporate plan and annual performance statement. But, in the absence of further detail, it seems unlikely to advance community (perhaps even entity) understanding of public sector performance. The PGPA Act is ultimately focused on the quality of record keeping rather than performance and, whilst it may satisfy the government and public sector leaders that there is a common governance framework in place for all such entities, it is unlikely to contribute to improved performance measurement or to improved performance in public administration.

The final changes I propose to the Public Service Act to improve public service governance of government activities, is the incorporation of a responsibility for the public service to systematically record the policy formation process (in addition to the expenditure processes), with a policy-formation governance module to be developed in conjunction with the Auditor-General for Australia. As argued in Chapter 3, I would propose that the auditor-general be empowered to audit this process through a change to the *Auditor-General Act 1997*.

In addition to these changes to the Public Service Act to enable the public service to deliver an improved package of government governance, I also propose to accord the public service a more active role in developing trust and confidence in government.⁵ By government here I do not mean the government, rather the act of governing of which public administration is an important part. The acceptance by the community of the right of any government to govern, built in part on the expected quality of its governing, is an important element in the effective functioning and cost of government. My case for this change is a pragmatic one and is based on three points.

5 Words such as 'trust', 'confidence' and 'legitimacy' tend to be used interchangeably. The first two can be distinguished from the latter as being consonant with standard market surveys, while legitimacy relates to legal underpinnings. Available data typically derives from such surveys and is therefore most commonly focused on 'trust'. As there is no need to consider the legal underpinnings of Australian governments, I concentrate on use of the terms 'trust' (mostly), and 'confidence' (occasionally), but note that, simply conceived, trust 'legitimises' the practice of government.

The first is that there is arguably a strong (inverse) link between trust in and the legitimacy of government and its cost, with the latter conceived as the standardised cost of delivering a unit of public value. Democratic (and undemocratic) processes can be used to frustrate governments that do not observe the will of the people, especially in matters where either the prospective costs or benefits are highly concentrated (geographically and socioeconomically). There are, therefore, benefits available to the community at large in improvements in trust and the legitimacy of governments, however achieved. My second argument for action is that not only is the relationship between trust and cost an inverse one but, with levels of such trust declining in Australia (and around the democratic world), the case for some action on this front is intensified.⁶ Moreover, I suspect that these additional costs start to rise exponentially when a lack of trust takes hold across a community and reverses the onus of trust from ‘I do’ to ‘I don’t’. My final proposition is that levels of public trust in public servants invariably outrank those of politicians, which makes a civil service contribution desirable were public servants enabled to make a more visible contribution.⁷

I therefore include a contribution to trust in, and the legitimisation of government, as a separate element in an expanded public service charter, both for its growing importance and because the APS, properly enabled, has an important contribution to make. The statement should also include a responsibility to capture performance of this duty in line with the broader governance responsibilities of the public service. It should be noted that this is not entirely a new responsibility, underpinning the values and code of conduct, and is clearly stated in clause 57(2)(f) of the Act requiring departmental secretaries to engage with stakeholders.

A third element for inclusion as a formal part of the role derives from Simon Longstaff’s (2015) observation that only the public service ‘sees all Australians’. There is always the risk with majority rule that minorities and disadvantaged groups will slip out of sight and be left behind: additionally,

6 It may be argued that some level of community cynicism surrounding government is healthy in a democracy. Whatever one might think of this argument – and its premises need to be carefully stated in doing so – current levels are well beyond the point at which this argument needs to be considered.

7 The Roy Morgan Image of Professions Survey 2017 shows that health professionals are the most valued by the community (measured in terms of their ethics and honesty), and car salesmen the least; the former scoring 94 per cent (nurses) and 89 per cent (doctors) respectively ‘high’ or ‘very high’. Federal and state MPs each scored 16 per cent, whilst public servants scored 37 per cent. The full survey results can be viewed online at www.roymorgan.com/findings/7244-roy-morgan-image-of-professions-may-2017-201706051543.

in today's world of ethnic and race-based politics, politocracies, and win-lose politics around the globe, there is growing likelihood that the sorts of community safety nets taken for granted in Australia will steadily disappear.⁸ It is not enough that community action groups form around the needs of these people; it is important that there is a group within government that has a requirement to 'see' them in the national interest.

Nonetheless, I have not included this as a separate component of an enhanced public service role but have incorporated it in the detail of Table 5.3 below, in which I consider the specified five components and their implications for public service activity across the identified constituencies. Similarly, I treat pursuit of the national interest as a means to an end rather than an end in itself, but I am less concerned about the allocation of items to one category or the other than ensuring all key items are embedded somewhere in the revised role statement. What I propose as the role for the public service through an enhanced clause 57(1) setting out the role of departmental secretaries, would acknowledge the five elements as comprising this role:

- advises governments on policy
- manages service delivery
- provides leadership across the public service*
- delivers government governance**
- enhances the legitimacy of government.**

* Revised

** New

Table 5.3 presents this five-part role with consideration for each component in regard to the three communities to be served. For many of the rest, clearly required improvements have been indicated.

⁸ Apart from matters of equity, the work of French economist Thomas Piketty (2014) and others gives more broad-based policy reasons why minorities and disadvantaged groups should not be allowed to slip out of sight. Recognition of the rising concentration of wealth over the last 250 years has sparked a global debate about the long-term consequences of income inequalities for global economic growth.

Table 5.3 The role of the public service: an expanded view

Function	Serves government	Serves parliament	Serves the Australian public
1. Advises governments on policy	Takes government policy agenda and advises on best policy/program/service delivery combinations to implement. Brokers policy advice amongst political parties and actively manages stakeholders.	Provides meaningful information to Joint Committee of Public Accounts and Audit and other parliamentary committees on policy implementation as required. Briefs all parliamentarians as required.	Provides globally based policy advice to government. Has regard to the national interest and 'sees' all Australians. Actively observes APS values and code of conduct. Actively administers the policy formation process.
2. Manages service delivery	Advises on and implements best service delivery options. Manages contestability program.	Provides meaningful information to Joint Committee of Public Accounts and Audit and other parliamentary committees on service delivery as required.	Delivers services efficiently and effectively to the Australian public. Actively observes APS values and code of conduct. Actively administers the service delivery process.
3. Provides leadership across the public service	Ensures that the public service endures, is ahead of the game, responsive to government needs, and creative in its endeavours. Steps up efforts on performance measurement and cross-boundary collaboration.	Ensures that the public service is responsive to the needs of parliament, particularly in regard to its responsibility to oversight government activities with good data.	Publishes annual report on public service activities.
4. Delivers government governance	Provides government with means of monitoring, assessing and reporting on its activities having regard to its goals. Captures public value.	Ensures that the full reporting requirements under the Public Service Act and the PGPA Act are met. Publishes useful annual and performance reports.	Through published data provides the public with sound information to assess government performance in regard to the authorities vested in it.
5. Enhances the legitimacy of government	Assists the government of the day with 'getting things done' and accounting for the results.	Assists in the preservation of the institution of parliament through support for parliamentary committee and other processes.	Reduces the cost of governing. Creates and captures public value. Promotes its achievements. Publishes annual report.

5.2.2.3 Operational pre-eminence is accorded to secretaries and departments

In this review of the Act, a critical point to note is the operational pre-eminence accorded to the secretaries and their departments within the public service domain. This is partly observable in the range of duties accorded to the respective key parties – the secretaries, the Secretaries Board, and the APS commissioner – but more particularly noticeable in the way that the secretaries are allocated roles and responsibilities but the Secretaries Board and the APS commissioner are only allocated a long list of functions. This interpretation derives from the definition of the word ‘function’ as ‘a mode of action or activity by which a thing fulfils its purpose’ (Moore 1999). On this basis the word ‘role’ might reasonably be associated with the concept of purpose, where responsibilities and functions are more of the detail of how this purpose is to be achieved. On this interpretation both the Secretaries Board and the APS commissioner might be argued to have a set of duties but not a defined role.

The Public Service Act clearly envisages the principal units within the APS operating framework to be the departments and the leading players to be the individual secretaries, with support provided to the secretaries by the APS and merit commissioners, and the Secretaries Board. The designated functions of the Secretaries Board further appear to indicate a project-based support role to the individual secretaries: the requirement for the secretaries to table annual reports and the absence of any such requirement for the Secretaries Board to do so is instructive in this regard.

In turn, the most important individual in the APS is the secretary to PM&C, who chairs the Secretaries Board and is the notional head of the public service. He/she is appointed by the prime minister following receipt of a recommendation from the APS commissioner, reports to both the prime minister and Cabinet secretary (a political appointee in Australia), and makes recommendations to the prime minister about appointment (and termination) of secretaries to departments other than PM&C and after consultation with the APS commissioner. Whilst there is no formal assignment of central agency status, the other agencies invariably placed in this group are the departments of Treasury, Finance, and the APS Commission (APSC).

In structural terms the APS commissioner is the second-most important person in the operations of the public service being appointed by and reporting to the prime minister, head of a statutory authority (the APSC), advising the prime minister on the appointment (and termination) of the secretary of PM&C (and, through the secretary, PM&C, all other secretaries) being a member of the Secretaries Board, and providing the prime minister with advice about the performance of his departmental head. The commissioner also has wide-ranging responsibilities for the establishment and review of public service employment conditions and conduct. The relationship between the secretary of PM&C and the commissioner might at times be a difficult one given their overlapping oversight responsibilities and individual management responsibilities.

The APS commissioner has an important leadership role – in upholding high standards of integrity and conduct in the APS, monitoring and reporting on the service capabilities required to provide high standards of accountability, effectiveness and performance, and developing APS workforce management policies. But these functions and activities are primarily supportive of the role of secretaries, notwithstanding that, in providing support, the APS commissioner has considerable autonomy in undertaking a range of these duties.

The importance of the pre-eminence of individual secretaries within the public service structure can be found in the Chapter 2 discussions of the models of governance and, specifically, the impacts of the various elements of the New Public Management (NPM) revolution of the 1980s, which are embodied in the Public Service Act. The academic literature pointed to some unintended consequences of these private sector–driven changes and top of the list for these was the impact on public service coordination and service delivery brought about by the fragmentation of the public service into a series of internally driven departments. It is not overstating the position to observe that within the constraints of ministerial direction, the public service has spent the last 30 years trying to undo this damage and build a platform for the sort of enhanced public service coordination necessary to deliver solutions to citizens in an even more challenging contemporary environment. The management philosophy underpinning the Public Service Act is rooted in the past and has become a barrier to effective government.

5.2.2.4 Whole-of-government and public service coordination is required but not enabled

The third point is that, while the Act accords operational pre-eminence to the department, it requires whole-of-government collaboration and consideration by secretaries in the execution of their departmental duties, and collegiate whole-of-public-service stewardship. As noted earlier, this level of interdepartmental cooperation might reasonably be regarded as the distinguishing operational feature of the public service when compared with the private sector. That is not to say that the Secretaries Board is not allocated significant whole-of-public-service functions – it is – but the Public Service Act makes no provision for dedicated resourcing, making it clear that the board’s activities are to be project-based. In not requiring the Secretaries Board to publish an annual account of its stewardship of the public service, the Act also makes it clear that the board’s role is to support the secretaries rather than provide the sort of systemic strategic leadership and oversight expected from a board in the private sector. Clearly it is a ‘board’ in name only, being nothing more than an executive management committee and without providing the direction expected of an executive management committee in the private sector.

5.2.2.5 Governance, accountability, and performance measurement

The fourth point focuses on the PGPA Act, which sets out substantial reporting requirements for the public service (departmental secretaries), requiring the preparation of annual reports and performance reports at the departmental level and annual reports for the APS commissioner and Merit Protection commissioner, along with the preparation of corporate plans. It is odd that the Public Service Act does not use the word ‘governance’ but, despite its absence, significant parts of the Act are concerned with governance – focusing on results and achieving the entity’s purpose, compliance with the laws of the land, and providing for protection of whistleblowers. Moreover, the PGPA Act (which followed the Public Service Act by some 14 years) includes a clear governance statement – ‘to meet high standards of governance, performance, and accountability’ – in its objects.

Nonetheless, it is unclear why there is no specific reference to governance in the Public Service Act and why there are no definitions of this and the two other central terms (accountability and performance) in the title of the PGPA Act. This represents a missed opportunity because

the word governance, at least, is a term in such widespread use across a range of disciplines and circumstances that, for the sake of clarity, it actively requires a context-specific definition (Bovaird & Loffler 2003). The absence of a holistic statement of responsibility for governance in the central Public Service Act has arguably been an important contributor to the public service's ongoing underperformance on this count: it was no less an important requirement of public administration in 1999 when the Public Service Act came into effect than in 2013 with the passage of the PGPA Act.

5.2.2.6 Ministerial role in public service appointments

Sections of Part 3, and the whole of Part 4 of the Public Service Act (clauses 20 to 38) deal with APS employment establishing the central role of the APS commissioner in the management of APS employment matters. Additional clauses establish appointment processes for the nominated public service heads – the Merit Protection and APS commissioners, and secretaries of departments. Clauses 58 and 59 set out the appointment and termination process for secretaries. The governor-general appoints the head of PM&C on the recommendation of the prime minister. The appointment of all other secretaries is similarly by the governor-general on recommendation of the prime minister but after receipt of advice from the APS commissioner and the secretary of PM&C. Termination of all is similarly by the governor-general on receipt of advice from the prime minister.

While the application of the termination provisions are subject to notions of procedural fairness, secretaries only occupy their offices with the ongoing support of the prime minister. Should the prime minister determine that a secretary has lost his/her trust, or that of one of the ministers, and should be terminated, then procedural fairness in the termination process is required but is limited to advice as to the grounds of termination and the opportunity to make a case for retention. This leaves secretaries and their staff exposed to political decisions. This latter applies despite the existence of clause 19, which is worded to discourage ministers from providing secretaries with any direction regarding staffing matters. The clause is not enforceable as there are many practical (and practised) ways around it. There are other protections provided for APS employees under the Act in terms of continuity of employment, merit-based promotion, rights to a review, and so on, but the Act's overall impression is that it does little to give effect to these important notions of

a career-based public service. Secretaries are employed at the pleasure of the prime minister and all other public employees remain at the pleasure of the departmental secretary and departmental ministers.

Overall, these observations lead one to ask how well one can expect the public service to adhere to the values and code of conduct set out in the Act as well as serve the parliament and the Australian public in these circumstances. Ministers determined to discourage briefing unless requested, and who interfere directly or through intermediaries in public service appointments, discourage public service observation of values and code of conduct, including the provision of frank and honest advice, and discourage the collegiality that is so important to the effective operation of the public service.

5.2.2.7 The role of watchdog and integrity bodies

A simple definition and designated public service role statement in regard to government governance should recognise that the government established a variety of watchdog and integrity bodies that are expected to play an important governance role. These include the financial- and performance-auditing roles of the auditor-general, and the investigatory role(s) of the Commonwealth and other ombudsmen and the various ad hoc 'commissioner' roles (such as transport, health, public safety, telecommunications, and child protection). The impact on the public service of the various bodies and Acts goes well beyond the government's adopted regulatory role in the private sector and intrudes into what should be a self-policing public service role. As a consequence, it thereby diminishes the public service responsibility for good governance in government administration.

This leads me to ask whether the public sector needs dedicated watchdog and integrity bodies and if there are sound institutional reasons for them, or whether the relevant bodies established to oversight related private sector activities could oversight both public and private sectors. A public service with integrated mechanisms to properly account for program-level impacts and their role in achieving policy outcomes, and individual public service heads who are held to account by their ministers for the performance of their departments would not require much of this costly superstructure, and public service responsibility could thereby be placed more closely on a par with that of the private sector.

Whereas the establishment and administration of a suitable governance framework (at least in the sense of government governance), is substantially the responsibility of the public service, accountability in the context of the business of government is primarily the responsibility of governments. Of interest here is the public accountability of governments and the role of the public service. Certainly the Public Service Act (public service value 4 ‘accountable’) makes it clear that members of the public service are accountable to the Australian public (‘within the framework of ministerial responsibility’), and that secretaries are accountable to the agency minister for a variety of duties, as noted in clause 57 of the Act.

As demonstrated in Chapter 2, however, the displayed accountability of government has a number of determining factors, including governance choices, the consequent administrative procedures put in place to demonstrate performance and conformance, and the (government) choices made about transparency. Ultimately, the government is in charge of accountability, not the public service. While this is the case with the governance choices made by governments, and the supporting administrative procedures put in place by the public service, the public service has an important enabling role with regard to performance measurement.

It can be argued from the drafting of both the Public Service Act and the PGPA Act that Australian governments want improved measurement of their performance from the public service – consider the references to ‘results’ and achievement of entity purpose in the Public Service Act and the additional reporting requirements set out in the PGPA Act. It is equally clear from state and national auditors-general reports that this is slow in coming and, together with reports from other jurisdictions, that it is a global problem. Without dwelling on the issue of government willingness to match the words in the Acts with action on the ground, it is noticeable that our politicians have traditionally set very low standards of accountability for themselves – both in terms of measurement and willingness to accept public scrutiny – for example, in regard to political donations and their work-related travel and expenses. It would be easy to argue that this inherent aversion to real accountability extends into the public policy and expenditure domain. It would also be consistent with poll results noted in Chapter 1 that suggest the Australian community see our politicians driven largely by self rather than public interest.

The core of what is missing and required is the measurement of program-level impacts of government programs linked to government policy objectives and the budgetary processes to demonstrate how individual programs contribute to the achievement of government policy objectives and are being consequently resourced.⁹ If it could be achieved this would be a major step forward. The second and related part of what is required is the expression of all of these outcomes in dollar terms, which, along with their costs, would enable the return on expenditures in different policy areas to be compared thereby enabling informed choices to be made about resource allocation. Such management information should also enable better decisions about what not to do.

5.2.2.8 The impact on public service behaviour

There is a broad range of elements to consider with regard to conduct of government – management and operations – ranging from how the public service complies with the many behavioural requirements of the Public Service Act, along with the manner in which it manages itself. These elements relate to the Objects of the Act (efficient, effective and apolitical), APS values, responsibilities of the secretaries and the functions of the APS and Merit commissioners and the Secretaries Board. In setting out a framework within which the public service might act in the public interest in pursuit of the goals outlined above, I emphasise the traditional elements (present in the Act) of the APS: giving government apolitical, frank and honest advice; being efficient, effective and innovative; and observing the APS values, code of conduct and employment principles. To these I add the notions of seeing all Australians and observing the national interest as being objectives worthy of recognition by a public service serving the government, parliament and the Australian public.

Some values and elements of the code of conduct are so important to the quality of government delivered that not only do they deserve to be enshrined in legislation but their protection also needs to be provided for in practice. So whilst the Objects of the Act along with the APS values may emphasise notions of an impartial and apolitical public service providing frank and honest advice to ministers, there is little or no effective protection in the Act as it stands for a public service that

9 Some of the necessary detail to meet this challenge can be found, for example, in ANAO (2017b).

acts accordingly. The capacity of incoming governments to replace department heads at whim flies in the face of the public conception of ‘apolitical’. So, whilst there is arguably no more important value in the Act than that embodied in the terms ‘impartial’ and ‘apolitical’, there is no effective protection in the Act for public servants who behave accordingly. The objective ‘apolitical’ and the value ‘impartial’, whilst desirable features of public service operations, are not enabled by the Act. The same might be observed for ‘frank and honest’.

5.2.2.9 Where is the long view?

Geoff Mulgan argues that long-termism in current governments is made difficult by the day-to-day cut and thrust of politics but that all successful governments establish three horizons of decision-making to create space for learning and reflection. There is the short-term horizon for day-to-day crises and issues, the medium-term horizon consistent with effective implementation of existing policies and programs, and the longer-term horizon that may look out to 50 years (Mulgan 2009; Chapters 1 and 2). Private sector management theorists such as James March describe this challenge as one of balancing exploitation with exploration, whilst strategists Gary Hamel and CK Prahalad frame this challenge around the notion of competition for the future (March 1991; Hamel & Prahalad 1994).

At the level of the Public Service Act, the notion of taking the long view is equally pertinent, whether pertaining to the public service role of principal official policy adviser to agency ministers, or of manager service delivery. Whilst the public service advisory role is rarely visible to citizens (other than perhaps through watchdog and integrity body reports) the advice sought can range from broad policy advice about program-level options to meet a particular policy objective or the detailed planning for public infrastructure, to regular advice to ministers in regard to the 24-hour news cycle and the crises of the day. Concerns may be raised that the allocation of public service resources is too heavily skewed to this latter. In the discussion of the performance of the public sector in Chapter 4, I outlined the views of past and current public service leaders and particularly drew attention to comments by the present (John Lloyd), and most recent past (Stephen Sedgwick), APS commissioners noting that the public service ‘endures beyond individual governments’, pointing to

a duty of the public service to look ‘over the horizon’, and ‘have regard for the national interest’, along with the associated suggestion that the public service had perhaps become a little reactive.

These comments point to the way in which advice sought by the government of the day might be framed, but arguably also point to a role whose component parts include an appropriate time frame within which advice is considered and the national interest, and one that moves beyond the simple notion of ‘advice’ to one of custodianship of the welfare of the Australian public. Longstaff’s notion that only the public service can be expected to ‘see’ all Australians is somewhat akin to the latter (Longstaff 2015). This fits comfortably with a role for the public service in serving the Australian public, and the parliament, in addition to the government of the day, as set out in the Public Service Act. It can be argued that the operational focus of the Act, the heavy emphasis on the government/public service relationship, and the continuing devaluation of public service policy advisory capability, substantially limit the capacity of the public service ‘to look over the horizon’ in a productive manner and should be addressed.

5.2.2.10 The philosophical foundations of the Act

Discussions over the content of what became the *Public Service Act 1999* occurred over a number of years before the Act was passed into law. These discussions occurred when implementation of the NPM reforms were in full swing and notions of public service accountability and contestability, along with a focus on public service efficiency, prevailed. It is clear from the structure of the Act that this philosophy is embedded in it. The placement of the department at the apex of public service activity along with the downgrading of the centre, and the strengthening of accountability of departmental heads to agency ministers point to the presence of this philosophy.

As observed by others, this philosophy as practised around the globe quickly outlived its usefulness, with governments moving on to more joined-up, whole-of-government approaches.¹⁰ The NPM’s major legacy has arguably been its ‘departmentalism’, which is fragmentation of the

10 For a substantial account of the impacts of the NPM reforms in the United Kingdom, see Hood and Dixon (2015), and for a less detailed view see Mulgan (2009, Chapter 3).

public service by any other name. Yet, in Australia we remain saddled with an Act built on the foundations of an arguably failed philosophy which inhibits such change.¹¹

There are many arguments to be made about problems with parts of the Act but, on this argument alone, there should be a substantial rewrite, placing horizontal cooperation – across the public service and external sectors – at the heart of public administration, and properly tasking and equipping the public service to deliver it and measure its impacts. One can only imagine how much different a public service Act drafted with joined-up and networked philosophical underpinnings would be and how much better the APS could be led and managed, and consequently perform and contribute in an alternative context. I next turn to the impact of the Public Service Act on the leadership of the APS, viewed in terms of the roles, structures, and resourcing dimensions of the Act.

5.2.3 The role of ‘the centre’

5.2.3.1 Organisation of the business of the public service

There are three critical dimensions of the formal organisation of the business of the public service established by the Public Service Act involving, (a) the manner in which individual departments are structured, (b) the manner in which the departments relate to each other and the whole, and, (c) how the public service relates to the government. In the normal course of both public discussion and academic research, these various elements are commonly subsumed within a whole-of-government framework focused on achieving the government’s goals.

11 Hood and Dixon (2015) review some 30 years of change from the introduction of the NPM changes in the United Kingdom and conclude, after constructing some purpose-built datasets, that notwithstanding the stated objectives for the NPM reforms, the UK Government seems to have ‘cost a bit more and worked a bit worse’ (p 183). They conclude, therefore, that the stated objectives for these reforms were apparently not achieved and consider a number of possible explanations as to why. Whilst the subsequent analysis is not conclusive, they leave on the table for further dissection possible explanations, including that the reforms were blunted by a changing social context, that they benefitted the change-makers, that entrenched interests somehow got in the way of change, or that they were only ever about political spin. My recollections of the Victorian Government experience were that (a) the public service was sidelined with the rolling out of the managerialist approach to public administration, and (b) the efficiency mantra was used as the primary justification for changes inside the public service and in the public domain. My interpretation of this experience is that there was strong political belief in the efficiency gains to be secured from the reforms and a strong desire to reconstruct the public service in the image of the private sector, that the timing was politically opportune and the message that could be delivered to the community at large and especially the business community by an incoming conservative government was a strong one. In Victoria the stars aligned.

Any public or indeed academic discussion of these issues would commonly be conducted in terms of the integrated activities of the public service and the government in the management of particular public policy problems, taking the relationship between government and public service as a given (typically involving a delineation of roles) and then working through the coordination issues. In practice, the contribution of the public service to good government and the alignment of the public service and government should not be a given in any analysis of good government but are important variables to be viewed through public policy eyes. These issues can effectively be viewed on a whole-of-public-service basis. Within the public sector management context any such discussion should be focused on the role of 'the centre', which, in this argument, requires an historical context.

5.2.3.2 Some history

In approaching the closing decades of the 20th century, the public service in countries around the globe was strong relative to the elected arm of government and provided much of the policy leadership expected of governments today. In varying degrees, this was a legacy of the major role it necessarily played after the Second World War in the massive physical infrastructure reconstruction and development programs that followed. Through strong departments led by a public service board focused on the development of a workforce fit for the task, it single-mindedly drove and coordinated public service activity to this end.¹² But the NPM revolution, bringing with it the devolution of authority to departments, the upgrading of the role of individual departmental heads, outsourcing of service delivery, and the strengthening of vertical lines of accountability of these 'chief executives' to their ministers, substantially diminished this role.

Laura Tingle provides an Australian perspective on these events, noting that it was the brief period of the government under Gough Whitlam in the early 1970s that started the slide in public service capability and was compounded by the introduction of the principles of NPM by subsequent governments during the 1980s. Tingle describes the initial changes – primarily in the way policy was formed and managed – as resulting from suspicions of public service allegiance. The more extensive changes that were to follow a decade later were foreshadowed by changes to the way

12 An account of the Australian experience is provided in Furphy (2015). See also APSC (2013a).

in which ministers and their offices interacted with the public service on policy, to the detriment of public service systemic and strategic policy capability (Tingle 2015).

Brian Head reaches a similar conclusion, determining public service policy capability was decimated by the events that accompanied the outsourcing of policy on the biggest issues (e.g. privatisation of public assets), and left it unable to respond in any other than a piecemeal way to the important subsequent changes in its operating and political environments (Head 2008). Head and Tingle both provide interpretative background to Sedgwick's comments about the 'reactive' state of the public service.

When observed in terms of the flow of history there was clearly a three-part process involved in the degradation of public service authority and independence, and consequently, capability. This involved, firstly, degrading the capacity of central public service leadership through the devolution of authority to departments; secondly, by the diminution in the independence of the department heads; and, thirdly, by the reduction of the number of government departments, which concentrated government management of the public service in considerably fewer (government) hands.¹³

And, as if to confirm the intent of this set of events, in 1996 the appointments of six departmental secretaries were terminated following the election to office of a government under John Howard. Having noted the loss of policy capability as a particular consequence of the changes described above, this was only one dimension – although the most prominent – of the public service capability lost through these changes. The greater problem was the loss of any real systemic central strategic management organisational capability in the form of 'the centre'.

5.2.3.3 Structural models of the centre

Most national government jurisdictions have a virtual public administration 'centre' of some sort. Generally it will be either a 'board' comprising the heads of government departments (the secretaries) chaired by the head of the prime minister's department, or it may be a formal or informal grouping of the so-called 'central agencies' – commonly the departments of prime minister and cabinet, and the treasury (and finance where these

13 Another useful chronology of key events has also been published by the APSC (2010).

two are split), along with a ‘public service commission’. The head of the prime minister’s department may also be formally designated as the head of the public service as part of this leadership structure.

A number of variations may exist around this basic leadership model, reflecting differences, many subtle, about the way in which power is exercised in the oversight and operations of the public service. In the United Kingdom, the most senior civil servant is the Cabinet secretary (a public service appointee) who is also formally designated as head of the civil service. In turn, the Cabinet secretary chairs the Civil Service Board comprising the 11 senior permanent secretaries. The board has general responsibility for the organisational and cultural development of the civil service as well as a number of specific responsibilities, including ensuring that the civil service is successfully implementing the government’s program, managing risk, ensuring that national audit office reports are shared and actioned, promoting the civil service as a great place to work, and ensuring that the civil service is well prepared for elections (See NAO UK 2014).

The NZ variation on this model of public service leadership and oversight has a ‘corporate centre’ through which the three nominated central agencies – the State Services Commission, Treasury, and PM&C – work together. Whilst each has its own responsibilities, these central agencies share responsibility to support each other: in the case of PM&C to ensure that government priorities are addressed (a responsibility also assigned to the State Services Commission); for Treasury, the role is to provide budget context in meeting these priorities and insights into the efficiency and effectiveness of public service activities; and the primary role of the State Services Commission is to ensure that the public service has the capability to deliver the government’s program.

The Canadian model is somewhat different again and more complex in terms of the number of players in the public administration field. The department heads are appointed by a similar process as Australia but are known as ‘deputy ministers’: they are appointed for an indefinite period but with the prime minister able to remove them on a simple unexplained basis. Canada’s Public Service Commission is a body similar in mission to our own APSC, with responsibility to promote and safeguard a non-partisan, merit-based and representative public service that serves all Canadians. The most senior public servant and head of the public service is the clerk of the Privy Council.

In Canada, the Cabinet directs the public service in its application and enforcement of current policies and the development of new ones. Cabinet is supported in the coordination of government policies and in the direction and management of the public service by central agencies such as the Privy Council and the Treasury Board, and by departments such as finance, justice and external affairs which have traditionally been major central policy departments. The picture one forms of the Canadian model is of a public service more integrated with the political arm of government than in the United Kingdom and New Zealand, with employment matters the province of an independent body reporting directly to parliament – the Public Service Commission – but with oversight from a number of government bodies that are very much part of the apparatus of government.¹⁴

As noted earlier, in Australia's case the most senior public service body – 'our centre' – is the Secretaries Board. The Public Service Act establishes the Secretaries Board to be responsible for the stewardship of the APS, its improvement, and the development of strategies to address APS-wide issues. As the most senior public service body, it comprises the heads of all government departments, the APS commissioner and any other appointees recommended by the secretary of PM&C. The Act also empowers the Board to form senior management committees to assist in its duties. Sitting below this board structure are the individual departmental heads (and APS and Merit commissioners) reporting to their respective ministers.

5.2.3.4 The role and structure of the board – a private sector comparison

The standard oversight and management structures of a multi-business corporation in Australia would see a board at the apex and a managing director/chief executive officer reporting to it who chairs an executive committee comprising the heads of the various business units. The board and executive committee would commonly have a number of subcommittees sitting below each of them. The Australian Stock Exchange sets out the role of the board for ASX-listed companies as primarily accounting to shareholders for the performance of the business (ASX 2016).

14 For a more detailed outline of the respective roles of government and public service, see Bourgault (2006).

Box 5.1 ASX board charter

- a. reviews and approves corporate strategies, the annual budget and financial plans;
- b. oversees and monitors organisational performance and the achievement of the ASX Group's strategic goals and objectives;
- c. monitors financial performance and liaising with the ASX Group's external auditor;
- d. appoints and assesses the performance of the Managing Director and CEO, and oversees succession plans for the senior executive team;
- e. oversees the effectiveness of management processes in place and approves major corporate initiatives;
- f. enhances and protects the brand and reputation of the ASX Group;
- g. reviews and oversees systems of risk management and internal control, and regulatory compliance;
- h. oversees the processes for identifying significant risks facing the ASX Group and that appropriate and adequate control, monitoring and reporting mechanisms are in place;
- i. monitors the culture of the ASX Group; and,
- j. reports to, and communicates with, shareholders.

Some substantial differences can immediately be seen between the governing and management structures for the private sector and the public sector. The first of these is that, whereas the private sector structure clearly separates the oversight (board) role from the role of management, in the case of the public sector there is no such distinction between management and board: the 'board' and 'management' roles for the public service are rolled into one with the heads of the respective business units comprising 'the board'. In large private sector organisations, such a lack of separation would be regarded as a fundamental failure of governance.

The second point is that, even allowing for this structural difference, the content of the respective board roles is substantially different with the private sector board performing an all-embracing role built around accountability to shareholders. The respective ASX guidelines start with phrases like 'reviews and oversees', 'oversees and monitors', 'monitors and oversees', whereas the Secretaries Board focuses on the operations of the public service. Few of the standard (corporate) accountability processes are included in the duties of the Secretaries Board, including approval of corporate strategies, overseeing and monitoring organisational performance, overseeing the effectiveness of management processes, protecting the brand, and overseeing regulatory compliance and risk

management and controls. Chapter 6 explores the separation of oversight (board) functions from those of management as an important contributor to the success and growth of corporate enterprise in the second half of the 20th century.

The third point is that the use of the word stewardship in the Public Service Act (which implies a support/service role), along with the establishment of a supporting committee structure to work with the Secretaries Board on a project-by-project basis using departmental resources (rather than the establishment of a dedicated team), both indicate that the Secretaries Board has a part-time, project-based role rather than an on-going leadership role. Oddly, the Public Service Act also ‘invites’ the Board ‘to set an annual work program’, ‘to work collaboratively’, and to ‘model leadership behaviours’: these are the expected activities and behaviours of a board, performed without the necessity of legislation. And, whilst the APS and Merit commissioners and the Secretaries Board (and the individual secretaries) have stewardship and development responsibilities for the public service under the Public Service Act, the systematic and systemic exercise of these responsibilities does not extend beyond employment and related matters.

Indeed, the watchdog and integrity bodies are the only part of the public sector that provides systematic commentary on levels of governance amongst government departments in Australia. These bodies have an air of independence from government, reporting as they do directly to parliament, but the capacity for, and actual practice of, this ‘independence’ is often overstated given that the legislation under which they operate is determined by the government and parliament of the day and the appointments to these roles are also made by parliamentary committees chaired by the government of the day. Through the enabling legislation and the accompanying appointments, the activities of these bodies can, within bounds, be constrained to areas that governments are more, rather than less, comfortable with.

A fourth point goes to the role of these watchdog and integrity bodies in both public and private sectors. In the private sector, the Australian Securities and Investments Commission (ASIC), along with other special purpose bodies such as the Australian Prudential Regulation Authority (APRA) and Australian Competition and Consumer Commission (ACCC), play the lead role in regulating corporate behaviour and mixing the roles of ex post governance with levelling the playing field(s). Importantly, however,

their roles are designed to complement the governance regimes mandated by the *Corporations Act 2001* and associated legislation for companies and other businesses. In the public sector case, the Auditor-General for Australia and the Commonwealth ombudsman and other watchdogs and integrity bodies are, in part at least, an apparent substitute for a more vigorous public service-led governance regime. This acts to the detriment of a cohesive and strategically led public service, effectively absolving it both from some of its government governance responsibilities, and deterring it from taking responsibility for its own governance. I argue that herein lies a fundamental failing of our system.

In addition, the Secretaries Board does not have dedicated resources nor a budget of its own, publish regular reports, nor more generally account for the stewardship of the public service it has been awarded, certainly not publicly to the Australian public, which is the major stakeholder for whom this stewardship is conducted. Nor does the Secretaries Board account for its role of serving the parliament. Put simply, it is a body of people with limited time to give to the strategic issues that confront the public service and no dedicated resources to do this with. At best it might act as an effective executive committee, but cannot provide the organisational leadership of a private sector board, and dedicated CEO with supporting corporate office. More than simply another two layers of 'management', this latter is the source of additional skills, experience, and tools to lead an organisation.

Bob Garratt makes a strong case for the board role in terms of the skills and experience that it brings to the table, observing the substantial differences between the board and management roles with a board focus on strategy and the necessary governance to deliver stakeholder goals. He argues that the reflective skills (and time) necessary in contributing board members are different from those of the executive team. Oliver Williamson also makes a more general case for a dedicated 'head office' organisational capability, arguing that a threshold requirement for the success of large organisations goes critically to dedicated leadership and support substantially free from operational responsibilities (Garratt 2010; Williamson 1970).

This point is echoed by Mulgan, who writes about the need for governments and other competent and responsible organisations to 'create space' for these activities:

But all successful governments have created spaces for thought, learning, and reflection to resist the tyranny of the immediate, and any government or public agency that takes its responsibilities seriously needs structures and processes to do these things. (Mulgan 2009, p 3)

The question to ask is, what then are the expected sources of and role for leadership in the public service given that it exhibits neither of the structural characteristics of leadership exhibited by similarly large corporations, namely neither resources dedicated to the full range of corporate matters (a corporate headquarters) nor a dedicated board?

5.2.3.5 The concept of leadership

It is important at this juncture to take a step back and think more deeply about the sources and role of leadership in any organisational endeavour: the role of management, the role of the board, and any dividing lines. There are two overlapping parts to this discussion, the first addresses the concept of leadership and its sources, and the second considers the respective roles of board and management. There are also at least two schools of thought with regard to the role and sources of leadership.

The first, which might be described as individualist or American, focuses on 'the leader' as the primary source of leadership in business. In the case of American business, this leader invariably heads the business operations and chairs the board. The second might be described as the organisational or British model, in which the person who heads the business invariably does not chair the board, although he/she may have a seat on the board.¹⁵ These different models represent varying conceptions of organisational governance and leadership with one seeing leadership in an organisation as founded on the skills of individuals and the other seeing leadership in structures and processes underwritten by the law of the land. Garratt has written extensively on this subject and below I draw on the distinctions he makes between the roles of the board and management.

In *The fish rots from the head*, Garratt distinguishes carefully between board and management roles by providing an historical perspective on the evolution of the modern corporation with its division between shareholders (who determine the organisation's fundamental purpose); the board, as the group primarily accountable to shareholders for their

¹⁵ Here, again, words can confuse because of a multiplicity of meanings. I do not mean by organisational, 'of the organisation', rather I mean related to the organisation of the business.

investment (who choose how the organisation's scarce resources are to be deployed in pursuit of the fundamental purpose); and the management employed by the board to lead the operations designed to give effect to the deployment of the scarce resources to achieve the organisation's fundamental purpose (Garratt 2010, pp 5–6). Garratt is clear that in considering what 'healthy' organisations might look like, the focus should be on the highest organisational levels, where purpose, means, and organisation take place; where the foundations are laid for the successive layers in the organisation to play their part, exercising within their own sphere of influence the levels of leadership and management required to achieve the various cascading business and administrative unit purposes.¹⁶

The structural leadership limitations of the APS are clearly reflected in *Ahead of the game*, the so-called blueprint for reform of Australian Government administration prepared by an advisory group led by the then secretary of PM&C with a senior and mixed academic, business, and public service advisory group.¹⁷ This group proposed to reform the APS in four areas: the forging of stronger relations with citizens; strengthening the capacity of the public service to provide strategic, big picture, policy and delivery advice; improving workforce capabilities and harmonising conditions across the service; and a stronger focus on efficiency. In their own words: 'The advisory group has put particular weight on the importance of leadership' (Advisory Group 2010).

Consideration of the group's recommendations to improve public service leadership should focus on two proposed sets of reforms. The first is the proposal to strengthen the APSC to unite the APS and lead change. At arm's length, this seems an odd recommendation structurally, with a body sitting outside the business activities of the public service and focused on workforce matters, to lead change. It is also difficult to understand, in the context of the mixed relationships established between the head of PM&C and the APS commissioner in regard to the Secretaries Board, the

16 Although not an issue that I take up here, it should be noted that Garratt is especially critical of governments (more so than of the Americans) arguing that they do not understand corporate governance. He argues this following a detailed discussion of the role of the statutory director, the legal background, and the fundamental requirement that such a person has one legally required loyalty only and that is to the health of the whole organisation. He argues this on the basis of the common appointment by governments of 'representatives' to government boards. His criticism of the American approach is that the executive traits required to be a successful executive are not only different but somewhat opposed to those required for a board director. He goes on to argue that an extensive conversion program is needed to convert executives into effective statutory directors (2010, Chapter 1).

17 Oddly, there do not seem to be any published terms of reference for this advisory group.

appointment of the secretary (PM&C) – where the commissioner makes a recommendation to the prime minister; and the performance of the secretary (PM&C) – where the commissioner also prepares a report for the prime minister.

The second set of recommendations focus directly on ‘reinvigorating strategic leadership’. These include establishing the Secretaries Board – to replace the Management Advisory Committee (MAC) – and the APS 200 group, to assist the board to discharge its duties. (The recommendations for the establishment of the Secretaries Board and its charter were subsequently enacted in full in amendments to the Public Service Act in 2013.) The criticisms that might be levelled at the reform group on a private sector comparative basis include: its limited vision in this regard, its continuing focus on the skills of individuals as the foundation of leadership, seeing projects involving individuals as the primary answer, and the underlying failure to actively consider (and discard) private sector-style alternative structures for the public service. It may well be that the sort of structural change pointed to by private sector comparisons was off the table but, in the absence of published terms of reference for the advisory group, there is no foundation for this view and the report seems to continue the common pattern of path-dependency in public sector reform.

While the report certainly addressed the issues of effectiveness and outcomes for citizens, which were highlighted as central to the future of NZ citizens (Ryan & Gill 2011), it did not adequately address the hangover from the NPM reforms in the form of managerialism and the question of leadership, the latter highlighted as one of the three principles that should guide developments as the public sector moves ahead. And, whilst it is difficult to argue with the view of the advisory group that it is people not systems who produce excellence and drive change, ‘people’ must put in place the systems and structures to enable and enhance change.

Graham Allison makes a number of important points in his 1980 article ‘Public and private management: are they fundamentally alike in all unimportant respects?’. The first is his answer to the question of how public and private management are different.¹⁸ He begins by

18 Allison uses the term ‘management’ to mean the organisation of resources to produce a desired result with a particular focus on general managers – that is, individuals charged with managing a whole organisation or what he describes as a multi-functional sub-unit.

asking how are they alike and concludes that there is a common set of management functions at general management level – providing a list of eight such functions ranging across three core elements: strategy (establishing objectives and plans to meet these objectives), managing internal components (organisation and staffing, directing personnel, and controlling performance), and managing external components (dealing across the whole organisation, dealing with external organisations, and dealing with the press and public).

Allison concludes by arguing that, whilst the character and relative significance of the various components differ between organisations and over time, there is a common set of functions and the challenge for the general manager ‘is to integrate all three elements so as to achieve results’. He asks how public and private management are different and, beyond the observation that public management is harder, he identifies a broad range of differences including in time horizon, authority, media relations, performance measurement and implementation. In putting these two pieces together, Allison concludes ‘that public and private management are at least as different as they are similar and that the differences are more important than the similarities’ (1980, p 296).

What does this mean for our study? Are there good reasons why the public service cannot or should not be structured along private sector lines? And, what does it tell us about possible gains from the application of private sector concepts to public management?¹⁹ Allison observes, bearing in mind that the study was prepared in 1980 when the nascent NPM had not yet emerged as a global movement, that performance improvement in the public sector is possible in many public management positions: ‘perhaps by an order of magnitude, but the notion that there is any significant body of private management practices and skills that can be transferred directly to public management tasks in a way that produces significant improvements is wrong’. And secondly, that improvement will come, ‘as it did in the history of private management, from an articulation of the general management function and a self-consciousness about the general public management point of view’. Allison concludes that: ‘The single lesson of private management most instructive to public management is the prospect of substantial improvement through recognition of and

19 Remember, this discussion is about general management and does not include the role of the board or corporate office.

consciousness about the public management function' (1980, p 296). This is not a conclusion of fundamental differences between the two, rather one of context, and emphasis in practice.

Perhaps a similar case can be made for the consideration of a private sector equivalent of corporate office and board roles in the case of the public service. That is, that in the same way as the consciousness of the general management functions in public management lay unrecognised for many decades and continues to evolve, it can be argued that there has been similarly little interest in the value that a dedicated CEO and corporate office could bring to the public service. Moreover, beyond the practice of appointing boards to oversee government business undertakings, there is also (still) limited collective consciousness and/or willingness to consider the added value that private sector-style boards might bring to the public service with their diversity of skills and experiences, and in particular the dedicated role of the statutory director to the health of the organisation. A way must be found in which the independence of such a board could be aligned with the interests of government to produce better outcomes for the Australian public.

An important question in considering the differences between public and private sectors and the implications for reform is whether there are particular institutional or other operating environmental differences that justify the legislated differences between them. Are there differences between public and private sectors that warrant these structural and role differences? How effective are the existing public service structures and relationships? How can public service performance be improved through changes to the structures and relationships?²⁰

5.2.3.6 Differences between public and private sectors

As noted in the introductory chapter there is much academic literature on the subject of differences between public and private sectors and whether they matter and on the related discussion of the adoption and adaptation of private sector management tools and research for public sector use. Much of the associated debate, however, is more ideological

20 Many of Allison's recommendations for the development of an equivalent general management capability in public management can be observed today in the subsequent creation of schools of government to teach public sector management. I wonder, however, whether the premise on which such schools are built, which requires a different educational framework for public sector executives, is the right one?

than evidence-based, with arguments pointing to fundamental differences including: presumed different motivation, an absence of competition, and a lack of private sector–style accountability. Although these sorts of arguments point more to differences of degree than root causes, they are made because these difference are viewed through the erroneous paradigm of a monopolistic as opposed to competitive public service.

I have already addressed the issue of motivation and argued for the presumption that public servants are no less self-interest seeking than their counterparts in the private sector. In Chapter 7, I further argue that there is little in the way of the private sector management tools and concepts that could not reasonably be adapted to public sector use. Certainly there are some differences of degree, but they do not justify a fundamentally different approach to the structuring and management of the public service. All organisations (should) have objectives, clearly identified shareholders/stakeholders, and a group responsible for delivering one to the other necessitating the same sorts of organisational leadership, management and oversight, irrespective of what sector of the economy they operate within. There is, however, a line of argument for inherent difference that requires consideration.

While I am unable to find satisfactory arguments to justify the a priori absence of an effective regime of government governance and public service governance in relation to public administration, the absence of a systematic regime of governance and of private sector–style structures can be explained by the existence of the Cabinet as the real board equivalent of the private sector. It can reasonably be argued that Cabinet is the peak oversight and decision-making body for the business of government, that through the political party (parties) it represents, it is answerable to the electorate on a regular basis and that, through the established institutional (parliamentary) structures and electoral accountability, Cabinet provides adequate ‘oversight’ of the total business of government including the public service. The absence in the Public Service Act of key oversight responsibilities for the Secretaries Board, and the existence of a set of independent watchdog and integrity bodies (auditors-general, anti-corruption bodies and ombudsmen) to support the government, is evidence supporting this argument.

Both in principle and on pragmatic grounds the argument doesn’t hold water. Taken as the primary justification for the different structures between the public and private sectors, the argument fails to recognise

that the public service is a separate organisation established under its own Act of parliament and which, in the words of a former APS commissioner, 'endures'. The political parties that form government are, in contrast, private organisations with a mandate to govern for a maximum period and whose primary organisational responsibility is to pursue the charter(s) of their members. Therefore, whilst the role of governing clearly lies with the elected government as supported by the public service, it is inappropriate to view the public service as a merely subservient extension to, or appendage of, government, as there are distinct differences in the legislative foundations of the two. One might further observe that there are distinct differences between the business of government and the business of the public service, with the former focused on the political dimensions of government and the latter on the administrative. From a public policy standpoint, differences between the government and the public service could easily be considered as important as differences between the public and private sectors.

A second and equally fundamental point of principle goes to the detail of the legislated responsibilities for the public service in the Public Service Act. The APS was established to serve not just the government of the day but also parliament and the Australian public. Section 3 of the Act, which sets out its objects states this intention as, 'to establish an apolitical public service that is efficient and effective in serving the Government, Parliament, and the Australian public'. Nowhere in the Act does it indicate that serving any one of these is to be subservient to the others. Clearly the APS is an organisation deserving of the sorts of structures and resourcing to meet the goals of its multiple stakeholder groups.

My third point of principle goes to the associated argument that the establishment of the dedicated public sector watchdog and integrity bodies (such as they are) with a duty to oversight the operations of the APS is further evidence of an existing holistic view of government embracing the government and public service as 'one'. Even if this were the intention, it would be ill-advised to place so much weight on ex post governance and so little on the establishment of ex ante incentives that should come with the public service taking responsibility for its own governance. A further point of difference is that the public service and government are subject to quite different kinds and levels of scrutiny.

By assuming that pursuit of self-interest is the primary motivation for individuals in politics and the public service, what sort of collective behaviour can be observed? Whilst acknowledging that individual motivation may not be translated directly into organisational behaviour because of institutional and contextual modifiers, evidence indicates that, in the case of politics, the pursuit of office is the primary goal and pursuit of good policy and ‘seeing all Australians’ is only seen as an optional means to this end. The sort of political behaviour that the electorate observes does not (necessarily) align with community expectations of good policy.

What, in the case of the public service, is the reward system? If the public service is closely tied to the operations of government and the prize (of career development) is awarded on the basis of political notions of ‘responsiveness’ then, for all intents and purposes, the public service is merely a vehicle supporting the endeavours of the incumbents to stay in office. Viewed in this light, the public service will be entirely reactive and transactional: all Australians will not be ‘seen’, and the public service will neither ‘endure’ nor have regard to the national interest in any productive way.²¹

This is the wisdom in Simon Longstaff’s observation of the realignment of the interests of the public service with the government of the day some 30 years ago and is substantially the position today. If the APS is to serve the Australian public and if good government is to prevail in the future, it is necessary for the public service to be provided with sufficient capability and degrees of freedom to be more than merely responsive to the needs of the government of the day. It is not enough, therefore, to argue that Cabinet is the real public service board: the public service must have its own effective board, even if this requirement is only seen within the boundaries of the existing public service Act.

5.2.3.7 Differences within the public sector

Yet another question that arises in this context of differences between private and public sectors concerns differences within the public sector. Given that the elected officials, not the public service, lie at the heart of

21 There is an important side issue here that explains, in part, the more visible self-interest-seeking behaviour of governments today. Mulgan (2009) points to the loss of trust and community activism together continuing to reduce the pool of authority to be shared between government and public service that is available. In this scenario the government only maintains its share by diminishing that of the public service. This hypothesis could explain in part the behaviour of governments in diminishing the capacity of the public service to ‘play the game’ and points to further pressure for such change.

Australia's government, and given that these elected officials belong to private organisations pursuing their members' goals, one could well ask why there is not an equivalent act of parliament prescribing roles, values, and conduct for the elected officials in the same way as the Public Service Act prescribes such matters for the public service. Certainly there exists a ministerial code of conduct but this is a document of the government of the day 'enforced' at the whim of the prime minister, with none of the authority that is prescribed for public servants through the Public Service Act. This legislative absence is particularly acute given that ministers and other elected officials have unlimited power in regard to the determination of policy.

The somewhat heavy-handed regulation of public servant employment and behaviour compares unfavourably with the light touch of regulation of the behaviour of elected officials when one considers where power is exercised in government, and that this power is exercised by private organisations. A clear manifestation of this difference can be observed in relation to the practice of ministerial responsibility and accountability. There are no dedicated, written, and enforceable guidelines and it is very much up to the prime minister of the day how such a concept is practised.

5.2.3.8 How effective are the existing public service structures?

Our next question considers how the public sector is performing given differences between public and private sectors in goal-setting, oversight structures and relationships. Is what is in place working despite some evident missing links? The evidence suggests not, with public service arrangements for oversight of their activities falling well short of their private sector counterparts. This evidence comes in the form of the academic and auditor-general reports considered to date; but perhaps some reinforcement is needed. The UK National Audit Office (NAO UK) report *The centre of government* examines the role of 'the centre' in UK Government, and draws together insights from previous NAO UK reports and comments, in particular from the 2014 findings of the Committee of Public Accounts (NAO UK 2014). (In the United Kingdom, the Cabinet Office and the Treasury comprise 'the centre'.)

The committee's examination of civil service reforms concluded that the Cabinet Office and Treasury were failing to act together as an effective corporate centre, that the centre did not provide the strong corporate leadership the government required, and it recommended defining a new operating model for the centre of government. This would include the

centre taking more control of key corporate functions such as finance, human resources and information technology, and the centre using its strategic position more effectively to ensure that government joins up its thinking and learns lessons from its past mistakes. Additionally, the report noted that both the committee reports and previous reports of the comptroller and auditor-general called for more strategic leadership and coordination from the centre in areas such as assessment of the key risks to government achieving its objectives.

In reaching these conclusions, the report identified the central agencies as undertaking strategic, coordinating, and corporate improvement roles. The report pointed to the need for greater integration, placing increased emphasis on long-term planning, greater cross-government integration, and the extension of central government leadership beyond matters of national security and prime ministerial support. The report identified particular needs/opportunities to include collection of information across government policies and programs, the sharing of good practice, and the provision of strategic leadership; exploitation of the government's collective strength; incentivising the right behaviour including promoting collaboration, integration and innovation; identifying and implementing more efficient and effective ways of working and presentation of a coherent view of government; improving government capability and articulation of a clear operating model for government incorporating clearer accountability; taking a strategic (i.e. whole-of-government) view of activity, performance, and risk, and allocating resources accordingly; and placing more emphasis on long-term planning.

If the NAO UK 2014 report found systemic weaknesses in the execution and conception of responsibilities at the centre of public administration in government, then a 2010 report, also by the NAO UK, provided a very good example of this oversight failure. Some of the conclusions from *Reorganising central government*, noted earlier, pointed unambiguously to the deficiencies of a system without effective central leadership and management (NAO UK 2010). The report's recommendations were:

- a. There should be a single team in government with oversight and advance warning of all government reorganisations.
- b. For announcements of significant reorganisations, a statement should be presented to Parliament, quantifying expected costs, demonstrating how benefits justify these costs and showing how both will be measured and controlled.

- c. Intended benefits should be stated in specific measurable terms that enable their later achievement (or otherwise) to be demonstrated.
- d. The planned and actual costs of reorganisations should be separately identified within financial accounting systems so costs can be managed and subsequently reported.
- e. A breakdown of planned and actual costs and financial benefits of every significant central government reorganisation should be reported to Parliament in the organisation's annual report in the year the reorganisation is announced.
- f. Each body at the heart of a central government reorganisation should share with the Cabinet office an analysis of lessons learned within two years of the date of the reorganisation.

5.2.3.9 How can public service structures be improved?

It is clear that 'the centre' is a virtual and notional collective representation of the individuals and organisations expected to provide the strategic drive and oversight of the public service. In Australia it is a role variously played out by the central agencies (PM&C, Treasury, Finance, and the APSC), the Secretaries Board and the two key individuals who head PM&C and the APSC. Notwithstanding these features, the structures, roles and responsibilities associated with these bodies and key individuals clearly fall some way short of the collective private sector equivalent. I have noted shortfalls both in regard to board-level direction and in regard to management. A reasonable question is, then, what could an effective public service look like in this context – in strategy, in oversight, and in organisational, terms?

In considering the operations of the public service in the context of equivalent private sector structures and operations, it is clear that what is missing at a whole-of-public-service level is the fundamental capabilities and mechanisms by which the public service could be led, managed, and developed in a strategic manner, and account for its activities to government, the parliament, and the Australian public. In particular, as spelled out in the ASX Board Charter, the role of the private sector board includes a number of key leadership and management ingredients that are absent from the public service conception of the centre. These include production, review, and approval of corporate strategies; oversight and monitoring of organisational (i.e. whole-of-public-service) performance; protection of the (public service) brand and reputation; and reporting to and communicating with (all) stakeholders.

Arguably, none of these activities lies outside the collective charter of the Secretaries Board, the secretary of PM&C and the APS commissioner. And a number are practised at the departmental level. But, in the absence of a real rather than virtual corporate headquarters with dedicated leadership and supporting resources, these matters are unlikely to receive systemic and corporate attention, being relegated to the basket of projects and occasional reports at best. Notwithstanding this observation, I have been unable to find a government jurisdiction in which the institutional and reporting arrangements as outlined above match even approximately that of the private sector for its public service arm.

Whilst many national and state jurisdictions have a board and a notional, sometimes designated, head of the public service, I have been unable to discover any democratic jurisdiction that duplicates the private sector practice of having a designated CEO with overarching responsibility for the strategic direction and results of the business and a board with higher, corporate-level, oversight responsibilities. In Australia's case, the key players in public administration are the individual departmental secretaries. It is they who have full responsibility and accountability for the operations of their departments in reporting to their portfolio ministers. In New Zealand and Canada some measure of this public administration independence exists in regard to recruitment and employment matters, but this falls a long way short of strategic oversight.

There is, nonetheless, a case to be made for a board that is separate from the executive management group, and a CEO/MD who is dedicated to the corporate role; these are the key sources of organisational leadership associated with determining what a business does and how it does it – addressing the questions of where to play and how to win at the highest organisational level – and actively building the systems, capabilities, and supporting synergies across the business to deliver on the organisational purpose. The business I am referring to here is not the business of government but the business of the public service. Viewed from a government and public service perspective, this is the role that should lie at the heart of the concept of 'the centre' in public sector terms.

I have argued strenuously that the public service lacks properly tasked and resourced strategic management and have examined in a preliminary manner the concept of strategy as it might apply to the public service role, along with alternative accommodating organisational structures. Whether one follows the arguments of Mintzberg (1979), Williamson (1970),

Porter (1985), Grant (1995), Lafley and Martin (2013), or McGrath (2013), a dedicated team could add great value to the development of the public service and its contribution to good government.

In looking at equivalent corporate structures where there is active strategic leadership in large organisations, there is invariably a separate peak coordinator's office. Williamson saw the value of this role in terms of both detachment from day-to-day activities making time available, and the use of this time to devote to corporate (i.e. whole-of-organisation) activities.²² It is to the benefits of this dedication of resources to leadership at the very top that he attributes much of the popularity of the multi-divisional organisational form in the private sector during the last century. Robert Grant, along with Allison, attributes to this the substantial productivity gains in the private sector of the US economy in the latter decades of the 20th century.

When seen in the context of the history of corporate strategy, this 'head office' role initially was viewed as one of portfolio management. The synergies sought from this activity were to be generated at the corporate level and delivered to the operating divisions, often through economies of scale: cheaper finance and raw materials, risk spreading, and shared use of marketing channels and supply chains. Subsequently, the focus shifted to the active creation of synergies between business units when the top-down synergies proved elusive. This head office role was to be played by 'the peak coordinator' with a supporting team of specialists to work with the divisions, all divorced from the day-to-day activities of the divisions, each led by a senior manager sharing an executive committee with the CEO. Sitting above the CEO and the executive committee is, of course, a board determining which businesses to be in to achieve the organisation's purpose. It is consequently tempting in this context to recommend a similar structure for the public service, where there is presently an executive committee with the title of Secretaries Board and no dedicated leadership and support team to lead the organisation.

22 In utilising the American literature on organisational form and behaviour, it is important to be mindful of Garratt's point that the vast majority of large American companies and boards are chaired by the CEO. As a consequence, American academics conflate the board and CEO/corporate office roles, treating them as one. Williamson (1970) is an example in his discussion of the peak coordinator's office. In this instance, it is important to bear in mind the distinction between board and CEO/corporate office roles.

One option on a direct translation basis would be to (1) establish a separate public service board reporting to the prime minister on a whole-of-public-service basis; (2) appoint a public service CEO with a dedicated team to assume the corporate CEO's role; (3) populate the public service board with external (to the public service) representation except for the public service CEO; and, (4) recognise that the present Secretaries Board is in practice an executive committee and call it such (the public service executive committee) to be chaired by the public service CEO. To give proper effect to this model the APSC would need to be abolished along with the roles of the APS and Merit commissioners, and their functions distributed to existing departments in line with the recommendations of the 2014 National Commission of Audit. Accordingly, the role of secretary for PM&C would revert to the role of a departmental secretary.

There would, however, remain some difficult organisational issues to deal with that should not be glossed over. These relate to the existing location of activities in a range of departments that embrace public service activities that would normally be part of the responsibilities of the corporate office. These include any whole-of-government coordination responsibilities assigned to PM&C, along with the primary policy role played by Treasury and the accounting function of Finance. In some cases it might make sense to draw such functions back to the corporate office, whilst in others it may make sense to leave them undisturbed. One way of dealing with the latter would be through service agreements between the corporate office and the responsible departments.

The case for such a general 'solution' lies heavily with the additional skills and time that a (largely external) board and corporate office would bring, while the key to such a structure working in the public interest would lie with the level of independence accorded to the public service board in the appointment of the departmental heads. This independence could come from two directions. The first would need to be a primary responsibility to make recommendations of these appointments to the prime minister with a substantial understanding that they should be accepted. The second direction would be the independence from political and bureaucratic influence of individuals appointed to the public service board. In other words, a board composed of individuals with sufficient standing in the community to discourage the prime minister from taking a 'hands-on' approach to the recommendations and decisions of the board.

I have looked through the literature on this subject as well as at the structures of the civil/public service in a number of countries but can find any such administrative model. Were it achievable it would be my first choice.²³ A compromise, and distinctly second-best position, would be to effectively roll the duties of a fully-fledged board and head office into one by maintaining the Secretaries Board (as a board of secretaries) as the peak structure, with a full-time chairperson (head of the public service) and support staff. Attracting the right sort of person would require a number of the other changes, including a revamped charter for the Secretaries Board, the right to publish an annual report, the downgrading or abolition of the APSC, and the confirmation of a career-driven public service. The skills and experience of such an appointee would be important with a primary recommended focus on mixed public and private sector experience at chairperson/head of public service level.

The third best option is one from the past. Until some 30 years ago, the lead department in the Australian system – PM&C at the national level and Premier and Cabinet at the state level – was an auditor, observer, and monitor of the activities of the other departments, overseeing the implementation of the government's agenda. It held no operational responsibilities and, along with an active public service board, had substantial capacity to provide much of the leadership so missing today. Since then, these departments have assumed major operational responsibilities thereby negating much of their inherent capacity to provide strategic leadership. My third option would be a reversion to this *modus operandi* with the assumption of whole-of-public-service leadership by the lead department, with its head being designated as head of the public service and with support staff being added to undertake 'head office' functions. In a *de facto* fashion, this seems to be the position today.

23 See Mulgan (1998–99) for a useful background paper on this subject.

5.3 Proposed changes to the Public Service Act

A brief summary of proposed changes to the Public Service Act is presented in Table 5.4. The first set of changes proposed to the Public Service Act involves clarification of what was intended in the original drafting. Top of this list is the rather large curiosity in the present drafting of the Act, which is the requirement for the public service to serve the government, parliament, and the Australian public (items 12 and 13). Some small hints of what was intended are provided in the Act but it remains largely unexplained how exactly the public service is able to serve all three given the inevitable conflicts that arise.

The focus of the second set of changes is on reinforcement where important clauses are not sufficiently detailed to be enforceable. The Public Service Act establishes one of the core public service values as the provision of frank and honest advice based on best available evidence, but provides no incentive or protection for a public service that honours this value in the face of government reticence to receive good advice. Changes to the Act to address this matter are highly desirable for it is clear that this is the primary role that the Australian public expects the public service to undertake on its behalf (items 7 and 9). In addition, public service responsibilities for performance measurement and government governance need to be spelled out to make them workable (items 10, and 15).

The third set of changes focuses on areas that the drafting of the present Act 'got wrong'. The major area in this regard lies with the underlying NPM philosophy and the focus on the department as the apex of public administration. A new philosophy of strategic management of the whole public service embracing cooperation, collaboration, and coordination across departmental and sectoral lines needs to replace this philosophy. Items 1 to 4, and 8, are designed to address this issue. The final changes proposed are the additional clauses required to adjust to the changing times. These are primarily items 5, 6, 11, 14, and 16.

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Table 5.4 Proposed changes to the Public Service Act

Changes proposed	Mechanism
1. The reintegration of the public service and its holistic management strategically, structurally and operationally, underpinned by a switch from the prevailing NPM philosophy to one of joined-up and networked government.	The whole act needs rewriting with the new philosophy.
2. The establishment of a properly tasked board.	Change required to the Public Service Act (and also the PGPA Act as well).
3. The establishment of a public service CEO and properly resourced corporate head office.	Change is needed in the Public Service Act.
4. The development and maintenance of a corporate strategy for the public service by its board and management based on its competitive advantage.	Change is needed in the Public Service Act, but much could be achieved without legislative change.
5. The assumption of a responsibility for public service governance by the public service.	This could arguably be achieved without legislative change but would be enabled by it.
6. Publication of an annual whole-of-public-service report by the public service.	This would most likely require change to the two guiding Acts.
7. Confirmation and strengthening of the Australian Public Service as a career public service, built around performance not permanence.	The clause that outlines this objective needs to be strengthened both as an objective and by the establishment of associated mechanisms and responsibilities to promote this objective.
8. Clarification of the goals of the public service.	Requires a new sub-clause in the Objects of the Act.
9. Strengthening of the public service's ability to provide honest and frank advice on best available evidence. The obligation on the APS to provide frank and honest advice needs to be matched by a ministerial obligation to receive it.	Change is required to the Act. Ministerial ability to make and influence public service appointments needs to be circumscribed. More broadly, duties and obligations imposed on the APS need to be matched by a ministerial/government obligation to enable their performance.
10. Formal allocation of responsibility for the public administration component of government governance to the public service.	This could be achieved through the Public Service and PGPA Acts but much could be achieved without legislative change. (The Victorian Act formally assigns this responsibility to the state public service.)
11. Allocation of partial role in building trust in government.	Requires a change in the Public Service Act.

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Changes proposed	Mechanism
12. Clarification of ministerial accountability to locate public service accountability to the Australian public within it.	This requires change to the Public Service Act.
13. Clarification within the Public Service Act of the content and manner in which service to (a) the government, (b) parliament and (c) the Australian public, is to be provided.	This requires careful drafting in the Public Service Act including acknowledgement of conflicts and their resolution.
14. A reconsideration of the respective roles of the public service and the watchdog and integrity bodies in government governance.	This has implications for the Public Service Act and the Acts under which bodies such as the auditor-general and the ombudsman operate.
15. Improving public service performance reporting by building it around good (internal) management information rather than (external) performance reporting.	This requires upskilling of public servants and cultural change for public servants to take responsibility for program-level reporting, without being constrained by Treasury/Finance. A change to the Public Service Act that goes beyond an 'effectiveness' responsibility to a customer/public value responsibility (as a journey) could reinforce this refocusing.
16. The formal assumption of responsibility for its brand management by the public service.	A change could easily be made to the Public Service Act to achieve this.

Four further comments are in order. Clearly, the public service contribution to good government could be improved in a range of areas, including performance measurement and management, governance, and strategic management. Some of this 'under performance' is directly due to the organisational prescriptions of the Public Service Act, whilst other parts are more behavioural in nature and can be associated with an absence of 'the right' incentives and protections in the Act. Moreover, some part, however measured, will be due directly to the public service itself. My interest is not the assignment of responsibility for under-performance as a precursor to 'fixing' it, rather to identify the nature of this underperformance and look to structural solutions primarily through changes to the Public Service Act. I expect that much could be achieved in the public interest through such changes.

With an eye to the future I have also pointed to some changes that could be made to the Act to accommodate a changed role for the public service in a changing world. One such change relates to the decline in the regard with which communities hold their governments today. Some measure of faith and trust in governments needs to be restored. Not only because the

(present) alternative is costlier, but also because communities can become ungovernable if cynicism and lack of trust come to dominate attitudes towards politicians and the associated institutions. The public service has a role to play here in underpinning community faith in our institutions and our politicians by demonstrably upholding the values and code of conduct and actively implementing the employment principles set out in the Public Service Act. This could be reinforced by a strategically led and managed public service that is self-aware of its 'brand' as a major contributor to the quality of government in this country. The UK Civil Service Board has assigned such a responsibility to Her Majesty's Civil Service, although this is limited to promoting the civil service as an attractive place to work. I have a more commercial application of the concept in mind, one focused on its customers (the Australian public in this instance) employing notions of brand value and its component parts, and a plan to build brand equity over time.

One public service, and the concomitant philosophy embedded in the Act to enable and encourage this, is an imperative. A new Act is required with a new philosophy of government and set of objectives, the achievement of which is specifically enabled by the Act. Whilst an objective of establishing an apolitical public service that is efficient and effective (Clause 3(a)) is not out of place in a public service Act, a higher purpose would be supported by a statement along the following lines: 'The creation of a strategically managed and cohesive public service actively managing its own business and reporting to government, parliament, and the Australian public on a whole-of-public-service basis'. I would also like to see a set of defined terms included in the Act that establishes the public service responsibilities for governance beyond the simple notions of performance measurement engaged in the PGPA Act. This would better encourage the public service to develop a capacity to take a holistic view of its own activities, to execute strategies to better support the government of the day and future governments, and better acquit their responsibilities to parliament and the Australian public.

The discussion of changes to the Public Service Act have so far focused directly on changes to improve the operations of the public service primarily from the standpoint of enabling the APS to become a more effective organisation producing better outcomes for the community. In addition to the recommended philosophical changes to the Act, another set of changes should be made to improve its usefulness from a public policy standpoint.

As it stands, the Act is prescriptive about how things should be done, to a lesser extent about what should be done (but still mostly described in process terms), and provides little indication of how the performance of the APS should be judged. A related point is that, while there have been regular changes to the Act over the last century or so, it has only been rewritten twice. I propose a more prescriptive Act in relation to the performance of the public service, containing a sunset clause and a requirement for review every 10 years. Such an Act could be drafted within the existing framework, incorporating the recommended changes in Table 5.4 and, most importantly, including process, output and outcome-based public service performance targets highlighting the prime areas intended for improvement.

It could read like a high-level business plan but would make clear the changes and manifestations expected of the next decade of development of the APS. These might include improved focus on the triad of outcomes, leadership, and effectiveness, but should also establish important component parts and signposts. Underpinning this prescription should be the notion of the integrated management of the public service built around capabilities (continuing the present work in this latter regard). In this manner, the Act could be prescriptive about public service performance. The alternative to this level of prescription in the Act would be to prescribe this level of content for the plans of (new) board and CEO.

5.4 Conclusions

In this chapter I have sketched out major changes to the role and responsibilities of the public service that I believe to be in the public interest, and have pointed to some consequential changes to the Public Service Act. Such changes are warranted by the changing context and nature of problems that need to be addressed from within the public sector and the ill-conceived foundations on which the 1999 Act was based.

Whilst a more responsive public service may well have been a desirable aim for governments back in the mid-1980s, when serious discussions about changing the original 1922 Act first emerged, by the time that changes were embedded in the 1999 Act, these NPM foundations were under serious challenge and a number of governments had already started to explore new models of government. Ironically, whilst the 1999 Act was designed to bring the public service to heel, it is clear that, by that time,

the public service needed to discover new ways of framing and addressing public policy problems and that fragmentation of the public service and decimation of its policymaking capabilities would significantly diminish this capability.

The unfortunate feature of these changes is that the notions of a responsive public service, and one with sufficient independence of thought to solve the thornier public policy and service delivery problems, are not necessarily in conflict. They need not have been seen so at the time of the NPM reforms, when wicked policy problems were emerging as an important challenge for public administration. They can be seen as even less so today for, over the last two or three decades, there have been substantial developments in the academic literature in relevant fields including organisational design (for example, how to balance stability with change), strategic management (how to manage strategy in a rapidly changing environment), and public sector innovation (how to manage innovation collaboratively and strategically for results).

In order to entertain broader possibilities, it is necessary to look outside government and the public service for inspiration. By stepping outside the confines of the Public Service Act and the current experience and considering, it is possible to do more than incrementalise on a present unsatisfactory situation. One way of framing an alternative role would be to look at the activities of the public service as a business, and ask the question: if the public service were an independent business within the confines of the industry called public administration, how might it conceive, structure itself and behave? This would involve looking at the public service as a competitive business, competing against a range of alternative suppliers.

An alternative frame of reference would be that of public policy, considering the role that might emerge from the public service acting in the public interest. The necessity of goal specification would remain, but it would clarify the question of whose goals are the focus. In the case of the former, I suggest the maximisation of its influence as an appropriate goal of an independent public service, and, in the latter, the goal of any public policy-driven changes should clearly be some measure of community welfare.

These alternative approaches might be expected to yield different profiles of public service activity – a competitive public service versus an acquiescent one – and point to some possible changes. In the end, of course, the goal must be the improvement of community welfare and the public policy criterion must prevail, but it may well be that pursuing the notion of a self-seeking and independent public service will throw up some ideas that would not otherwise be identified and that might pass the public-interest test.

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