

2. My fortunate career and some parting remarks¹

Andrew Podger

Andrew Podger is currently professor of public policy at The Australian National University and adjunct professor at Griffith University and Xi'an Jiao Tong University. Originally a mathematician, he joined the Australian Public Service as a cadet with the Australian Bureau of Statistics in 1978. He served as Secretary to the Departments of Health and Aged Care, Housing and Regional Development, and Administrative Services before becoming Public Service Commissioner in 2002. His last role as a public servant was to chair a task force for the Prime Minister on the delivery of health services in Australia.

I have indeed been blessed with a fortunate career in the Australian Public Service. From my beginnings at the Bureau of Statistics to the departments that immediately followed – the Social Welfare Commission, the Department of the Prime Minister and Cabinet, the Department of Social Security (my first SES job and the most enjoyable period of my career) – I serendipitously worked in a series of remarkable teams.

My good fortune continued when I joined the Department of Finance in 1982 under the stewardship of enormously strong financial reformers including Mike Keating, Tony Harris, Pat Barrett, Tony Blunn, Malcolm Holmes, Neil Johnston, David Rosalky and Alan Briggs.

At the Department of Defence I not only worked with fine civil servants but also military leaders of great skill and integrity such as Peter Gration, Alan Beaumont and John Baker.

My period at the Department of Housing and Regional Development would have been a huge success, but it ran out of time. While the likes of Jeff Harmer, Jeff Whalan, Lyndsay Neilson, Mark Johnston, Alan Evans and Christianna Cobbold were not always easy to marshal, our department was a happy one. I remain bemused that the public housing micro-economic reforms that were even approved by COAG disappeared in 1996, and that our cooperative approach to city and regional infrastructure of national importance seems only now to again be getting the attention it deserves.

¹ This speech was delivered in June 2005 at a farewell function organised by the Department of Prime Minister and Cabinet and the Australian Public Service Commission, before the system of formal valedictory speeches was introduced.

With the benefit of hindsight

Being appointed Secretary of the Department of Health was my greatest challenge, as I had the task of revitalising a department and portfolio that, while talented, was low on morale and high on cynicism. And yet, some changes in structure and personnel led to me working with a good group of CEOs heading up HIC, Medibank Private, the Food Authority, ARPANSA, the PSR, CRS and AIHW. The team in the department also coalesced with Judith Whitworth and Dick Smallwood to give us the credibility we needed within the medical profession, while David Borthwick added to our economic credibility. Mary Murnane, my saviour during the Aged Care crisis, provided the essential continuity and corporate knowledge for the executive. Moreover, the division heads were as strong a group as you will find anywhere, most having been in the health and community services field for a long time, but now working much more as a team rather than as robber barons.

The APS Commission was an altogether different proposition, having been well managed by my predecessor Helen Williams. Moreover, while in the job I received able support from Lynne Tacy and Jeff Lamond in particular. We faced some turnover in the SES, but I know I left my successor Lynelle Briggs with a strong team comprising a mixture of human resources expertise and exceptional analytical talent.

I was also fortunate to have worked closely with ministers and parliamentary secretaries from both sides of politics who, in nearly all cases, were enormously hard working, intelligent and genuinely concerned for the welfare of Australians. Well before I became a departmental secretary I had the privilege of working closely with not only Dame Margaret Guilfoyle, but also Fred Chaney, John Dawkins, Peter Walsh, Robert Ray and John Faulkner. As secretary I worked briefly with Bob McMullan and then with Brian Howe for two years when he was Deputy Prime Minister; this was followed by Michael Wooldridge for six years and his junior ministers and parliamentary secretaries such as Judi Moylan, Warwick Smith, Trish Worth and Grant Tambling. In the Commission I worked with Tony Abbott and Kevin Andrews; many different personalities and styles, and quite different political philosophies, but from close up I can say firmly that familiarity does not breed contempt. I also worked with some excellent and dedicated advisers such as Rod Kemp, Jenny Macklin and Barbara Carney.

Some parting remarks on the Australian Public Service

When Roger Beale retired as Secretary of the Department of the Environment and Heritage in 2004, he questioned the popular assumption that the 'golden age' of the Australian Public Service was in the 1950s and 1960s and that today's APS and its leadership are somehow of a lesser quality. I too question the veracity of this notion. One need only look at the remarkable contributions of recent leaders such as Tony Ayers, Mike Keating and Ian Castles, all of whom I believe have left legacies that will stand the test of time. Helen Williams will also be recognised as a great pioneer for women in the service, and a champion of our profession. But in doing so, I do not want to denigrate the exceptional characters of earlier eras: Robert Garran and Duncan McLachlan at the beginning of the twentieth century; Melville and Giblin in the 1930s; the 'Seven Dwarves' of the 1950s of whom Sir Roland Wilson remains amongst our most brilliant stars; Fred Wheeler in the 1970s with his emphasis on due process; and Bill Cole.

But the fact is, the APS has a history of which we should all be proud, and that pride should be fostered as an important means of reinforcing confidence in our role and capability today. During celebrations marking the centenary of the APS in 2001, it was noteworthy how much pride and morale today's public servants took from the various studies undertaken on the history of the service to mark the occasion.

Peter Shergold, like Roger Beale, has also highlighted that it is wrong to judge today's service against the context in which it operated in the past. We are subject to much more scrutiny than were our predecessors, and there are many more players on the stage with whom we must compete, and share power and authority. In fact, in sheer terms of overall expertise and education, today's Australian Public Service is far more capable than it ever was in the past.

And yet, the credibility of today's leadership is not enhanced if it does not acknowledge our current challenges, weaknesses and occasional failures. Let me now focus on that perennial challenge for the service: balancing our responsibility to be responsive with our duties to remain apolitical, impartial and professional.

Like all such balances, the proverbial pendulum swings back and forth over time, and it is dangerous to assume that there was ever a period of equilibrium when an exact balance was achieved. Ian Hancock's 2003 book *The V.I.P. Affair*, for example, demonstrates that some of our acclaimed leaders of the past overstepped the mark in giving ministers what they wanted and not giving the parliament the facts it legitimately sought. On the other hand, one of the reasons

With the benefit of hindsight

I so admire Sir Roland Wilson is because of his firm understanding of the need to be responsive as well as apolitical and impartial. 'I hope,' said Wilson, 'that I shall never be guilty of ignoring the voice of the people. In fact I feel that some of our public service administrators have been altogether too much infatuated with their own crackpot views and the sooner I subject my own thinking to the supervision of my political masters the better we shall get on.'

There was bipartisan consensus in the 1970s and 1980s that the service was too independent and not as responsive to the elected government as it ought to be. As a consequence, while the changes enacted in the 1980s and early 1990s to rectify this problem did generate some debate, they have generally been accepted by both sides of politics. For example, Prime Minister John Howard observed in 1996 that the APS was working more cooperatively with ministers and ministerial staff than had been his experience when Treasurer in the Fraser government. Howard would of course build on those earlier changes by for example introducing performance pay for secretaries.

I doubt there are many today, however, who would argue that the APS needs to shift the balance further towards responsiveness. The more serious questions for contemporary public servants concern our professionalism, our impartiality, and whether our clear obligation to be responsive has occasionally caused some of us to be too concerned to please.

What were the lessons for the APS from the Children Overboard affair of 2001? Much has been said about the poor record-keeping, the unclear lines of accountability, the role of ministerial advisers, the passing on of information without adequate caveats about its authority, and the failure to correct inaccurate advice. I have covered these issues, particularly about ministerial advisers, before. But I also remain uneasy about public servants trying to hide their legal authority and responsibility and to refuse to hear requests for asylum they would have had to consider; and about senior public servants and military officers continuing to maintain in the Parliament the possibility that children were thrown overboard many weeks after Air Vice Marshall Houston's advice [that children were not thrown overboard] was given and known to have been given.

Now I know from bitter experience with the MRI affair the way hindsight can highlight mistakes with no appreciation of the circumstances and the real choices faced at the time. Consequently, I have always been reluctant to point the finger at people who were under enormous pressure at the time. But my concern is to ensure we learn the lessons from such experiences and, for me, the lessons from this case relate to giving more emphasis to our obligations of

professionalism, impartiality, being apolitical and complying at all times with the law – the obligations that imply a degree of independence notwithstanding our need to be responsive.

Much has been said about ‘frank and fearless’ advice. I have rarely found it particularly challenging to offer policy advice that was not welcome. Rather, where courage was needed was when advising on due process, on releasing documents under FOI, on making corrections in the Parliament, on tender processes, on publishing performance data in the Annual Report, on giving an individual or an organisation opposed to the government fair treatment, and not giving favoured treatment to advisers seeking jobs in the department.

The elected government certainly has the authority to determine the public interest when it comes to matters of policy, and as Mike Keating said when he was Secretary of the Department of Prime Minister and Cabinet, it would be arrogant of public servants to assume they have greater understanding of the public interest. But the public service does have particular responsibility for the public interest in ensuring due process: fair treatment of those affected by government decisions, transparency of decision-making, careful and diligent management of programs and compliance at all times with the law.

Let me now highlight one area that is very difficult, but has been causing me increasing concern in recent years. It relates to communications and to freedom of information and has implications for the long-term capability of the service as well as its obligations of impartiality and professionalism.

Communications are at the heart of politics, and the enormous increase in the power of the media has required a sophisticated response by politicians – particularly by those in government. This includes careful control to ensure consistency and to influence the agenda, as well as to present the government, the government party and the key politicians in the best possible light. In turn, the media has, I believe, become more cynical and more determined to find the information that might challenge the official position, and then to sensationalise it. We thus have a spiral, and the public service, ever obedient to the elected government, has had its links with the media and the public subject to much closer control.

It is hard to deny the right of the elected government to issue instructions about communications by public servants. Moreover, public servants are rightly prohibited from leaking confidential information which, apart from any specific security concern, does untold damage to the trust of ministers in the public service.

But let me raise some examples to illustrate my unease. There is widespread concern in both government and the senior echelons of the APS that FOI has

With the benefit of hindsight

so widened access to information that countermeasures are needed. Examples could include fewer file notes, diaries being destroyed regularly, and documents being given security classifications at higher levels than are strictly required and handled to minimise the chances of FOI access. Given recent concerns expressed by the Auditor-General and others about record-keeping, most senior public servants recognise that these countermeasures must not hide the decision-making trail. But the trail that is left is often now just a skeleton without any sign of the flesh and blood of the real process, and even the skeleton is only visible to those with a need to know.

Now what is being protected here? The public interest, or the partisan interest of the government of the day? Maybe the liberal interpretation of FOI legislation by the courts has undervalued the public interest in allowing the government to deliberate on issues without constant public glare that tends to promote special interests and a short-term view. But there must be strong suspicion that partisan interests are often the main consideration, and public servants desiring to be responsive may be encouraged to give more weight to the concerns of ministers than to the public interest in due process, and the implicit and explicit requirements of administrative law.

The FOI Act explicitly requires that it be interpreted to further the object of extending as far as possible the right of the Australian community to access information held by the government, and that any discretions conferred by the Act are to be exercised as far as possible to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information. Is that really our approach?

While I lack any statistical evidence, my impression is that departments are not only publishing less policy research, but are also conducting less. Some of the slack is being picked up by specialist agencies like the Productivity Commission and the Australian Institute for Health and Welfare, and by external bodies including universities. But the public service has a substantial share of the nation's expertise in many fields, and exposing that expertise in public forums is important for the public and also for fostering that expertise and capacity into the future by allowing our work to be externally tested from time to time.

There is also a tendency to require all contacts with the media to be managed through the minister's office. I would hardly suggest public servants disobey lawful directions by ministers, but there are many circumstances where the public interest would be better served by direct access to officials. For example, in crises where the public expects to hear from the professional experts – the Chief Medical Officer, or the Head of the Fire Service or the Chief of the Defence Force. I think it is also good practice for the official holding a legal delegation to publicly give reasons for a sensitive decision – as I insisted upon in the case of

the licence for the Riverside Nursing Home. While open accountability is one of the APS Values and is explicitly within the system of ministerial responsibility, in my view it is best met in these sorts of cases by direct communication by the public service with the public. Apart from anything else, it tends to place the emphasis back onto due process, the requirements of procedural fairness and the specific provisions of program legislation.

Returning to Children Overboard, I wonder if the problems were exacerbated, rather than contained, by the severe constraints on the Navy officers from speaking publicly about operational matters. An inaccurate statement by an official can be corrected by that official without much fanfare if done promptly. Statements by ministers are far harder to correct, particularly during an election.

But as I previously said, these things are difficult. And yet, I would like to see more discussion of what is good practice and, if it is the case that the FOI Act is undermining public interest in particular situations, then let's see the Parliament debate the matter and amend the legislation we are bound by. I am probably showing my naiveté, but it would also be nice to think the media could be more responsible in its approach, taking seriously some of the suggestions recently made by Michelle Grattan on the matter.