

Chapter 1. A failure of public administration?

Introduction

Debate in the press about the politicisation of the APS has intensified in recent years. Undoubtedly these debates are not new. As will be seen, debate about the 'proper' role of the public service has continued virtually unabated since the Whitlam Government introduced ministerial advisers following its election in 1972. Nevertheless, commentators on both sides of politics have reflected on both the number and profile of recent controversies involving perceptions of public service politicisation.¹ These include the 'Children Overboard' affair (known to the Senate as 'A Certain Maritime Incident') involving the Departments of Defence, Immigration and the Prime Minister and Cabinet; the cases of the detention of Cornelia Rau and the deportation of Vivian Solon, involving the then Department of Immigration and Multicultural and Indigenous Affairs (DIMIA);² the payments made by the Australian Wheat Board (AWB) to the regime of Saddam Hussein in order to obtain contracts for the sale of Australian wheat to Iraq, involving the Department of Foreign Affairs and Trade (DFAT); the detention of Dr Mohamed Haneef, involving the Australian Federal Police; and the role of a senior public servant in the Employment and Workplace Relations portfolio as the face of the Howard Government's *WorkChoices* media campaign.

Debate around most of these cases has tended, particularly in media analysis, to focus on issues of 'who knew what and when'. All except the last have resulted in some form of formal inquiry.³ Each involves allegations or suppositions about the degree of direct or indirect complicity between public servants and politicians concerning the communication or management of politically sensitive information. It is not the intent of this monograph to pursue what is known or can be inferred about the involvement of individual public servants in these cases. Rather, it explores how changes made to the administration of the public service over the past 30 years have had the effect of progressively blurring the differences between what professional public servants do and what politicians might want them to do.

The chapters that follow argue that a number of the core 'traditional' principles of public administration that have applied in Australian, as in other Westminster systems of government,⁴ have been compromised following New Public Management reforms. Australian NPM, it will be argued, brought about a number of distinct and mutually reinforcing institutional reforms embedded in a number of distinct and mutually reinforcing systems. Like all system changes, they were

introduced gradually, applied unevenly, and have been the work of many hands. The formal intention was to introduce new disciplines to the public service, making it more efficient, effective and responsive to government. Over time, however, some of those disciplines have been ratcheted up to the point where responsiveness tips into complicity.

The following description and analysis of how this happened, and is continuing to happen, is intended to inform broader debates about the role and function of the public service in the early twenty-first century. The examples cited are recent and in the public domain, but it should be understood, as a former Public Service Commissioner has observed, that 'insiders know better than anyone ... that the concerns have been mounting in the Commonwealth since before 1996, and have been evident equally if not more so at state level under both Labor and conservative governments'.⁵

The terms of the debate

In 2006 the then Secretary of the Department of the Prime Minister and Cabinet, Dr Peter Shergold, described the 'Children Overboard' affair and the mistreatment of Cornelia Rau and Vivian Solon as 'failures of public administration', unfortunate 'mistakes' that have nothing to tell us about public service culture or the relation between the public service and the Government:

I do not accept that the failures represent the collapse of the Westminster tradition or the diminution of public service values or a sad decline in ethical standards. More profoundly, the mistakes are failures of public administration not instances of government conspiracy. The government did not direct public servants to provide false information or fail to correct the record or act outside the law. Nor did it intimate that such behaviour was acceptable. Nor did Ministers put impenetrable barriers around themselves.⁶

This representation of the present state of the public service is significant for a number of reasons. The language suggests that, so long as the Government did not explicitly direct, or intimate, that public servants should act unethically or unlawfully, then there were no broader institutional issues and the problems were simply local. That is not, however, how the system works or is meant to work. Public servants are meant to serve ministers and act in their name. The Public Service Act calls for responsiveness to ministers (s.10(1)(f)), responsiveness that anticipates as well as implements their requirements. It calls for a performance culture with a focus on 'achieving results' sought by government (s. 10(1)(k)). Responsiveness is hardwired into service-wide legislation, service-wide policies, and agency arrangements to support them. Without an understanding of how this overarching framework positions individual public

servants who are making (or failing to make) administrative decisions, there is always going to be an increased risk of 'failures of public administration':

We look to previous instances, such as the 'certain maritime incident' or children overboard affair; the illegal detention of Australian citizens by the Department of Immigration and Indigenous Affairs, the problems revealed by the so-called 'travel rorts' affair, and difficulties with trust fund monies in the land transport development fund. Any one of these in isolation would be a problem that could be attributed to one-off failings on the part of individuals. Taken together, they begin to amount to a pattern—a systematic lack of capacity to identify problems, keep accurate records, and draw these uncomfortable problems to the attention of ministers.⁷

The real questions to ask about these failures are:

- can a system that privileges responsiveness be tipped into complicity?
- what are the circumstances that turn individual lapses of judgement into systems failures?
- can the cause of these failings properly be labelled as politicisation?

Critically, these questions are often about the changing meanings of the terms in which the questions themselves are posed. Over time and across contexts the meanings of even key words like 'politicisation' and 'responsiveness' alter, as do those of more obviously slippery terms like 'performance culture', 'contestability', 'managing for results', 'organisational alignment', 'partnerships'—and even 'New Public Management' itself, which is subject to ongoing debate and redefinition.⁸ All of these terms are embedded in and changed by the history of their use.

Take 'responsiveness', for example. The need for increased responsiveness was identified by the Royal Commission on Australian Government Administration (RCAGA) in 1976. As will be seen later in the chapter, RCAGA used the term to refer to a more adaptive approach to service delivery as well as a sensitivity to government objectives that included a more efficient approach to implementing them. Over time, the latter became the dominant meaning of 'responsiveness' for the APS. Looking back in 1993 on the broad pattern of the Dawkins reforms in the 1980s, Prime Minister Paul Keating reflected that:

Central to our reforms of the public service was the desire to ensure that the government of the country belonged to the elected politicians. We stated at the outset that a key objective was to make the Public Service more responsive to the government of the day, more responsive in the sense that it would be better able to recognise and achieve the Government's overall policy objectives.⁹

In 1999 'responsiveness' acquired a legal definition as one of the APS Values established in the Public Service Act to guide the conduct of public servants. The initial Public Service Bill 1997, presented by Peter Reith, included the bare clause (s.10(f)): 'the APS is responsive to the Government in providing timely advice and implementing the Government's policies and programs'. This emphasis on both advising and implementation was broadly consistent with the overall thrust of RCAGA, but the definition itself lacked a number of critical qualifiers that had been recommended to the Government. The Bill was referred to the Joint Committee on Public Accounts (JCPA), which urged a strengthening 'in relation to the provision of frank and honest advice'.¹⁰ Fearlessness, it appears, was not even on the agenda. Senate amendments unacceptable to the Government were made and the Bill was allowed by Minister Reith to lapse. The next Minister Assisting the Prime Minister for the Public Service shepherded an amended version through Parliament which read: 'the APS is responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programs' (s. 10(1)(f)).

Section 10(1)(f) of the Public Service Act has since been elaborated by the Public Service Commissioner in *APS Values and Code of Conduct in Practice: A Guide to Official Conduct for APS Employees and Agency Heads*. The guidance still links operational efficiency with strategic attainment of government goals, and emphasises 'a close and cooperative relationship with Ministers and their employees':

Responsiveness to the Government demands a willingness and capacity to be effective and efficient. Responsive APS employees:

- are knowledgeable about the Government's stated policies
- are sensitive to the intent and direction of policy
- take a whole-of-government view [and] are well informed about the issues involved
- draw on professional knowledge and expertise and are alert to best practice
- consult relevant stakeholders and understand their different perspectives
- provide practical and realistic options and assess their costs, benefits and consequences
- convey advice clearly and succinctly
- carry out decisions and implement programs promptly, conscientiously, efficiently and effectively.

Responsive advice is frank, honest, comprehensive, accurate and timely (APS Value (f)). The advice should be well argued and creative, anticipate issues and appreciate the underlying intent of government policy.

Responsive advice is also forthright and direct and does not withhold or gloss over important known facts or 'bad news'.

Responsiveness demands a close and cooperative relationship with Ministers and their employees. The policy advisory process is an iterative one, which may involve frequent feedback between the APS and the Minister and his or her office.

Responsive implementation of the Government's policies and programs (APS Value (f)) is achieved through a close and cooperative relationship with Ministers and their employees. Ministers may make decisions, and issue policy guidelines with which decisions made by APS employees must comply. Such Ministerial decisions and policy guidance must, of course, comply with the law and decisions by APS employees must meet their responsibilities for impartiality and efficient, effective and ethical use of resources.¹¹

Adjusted or alternative definitions of what 'responsiveness' should mean have been posed by academics, media commentators, and members of the Opposition.¹² What it means in practice to working public servants, when disciplined by the contestability of policy advice (see Chapter 2), inserted in a performance management system (see Chapter 3), experienced through devolved relations with specific ministers' offices (see Chapter 4), aligned with ministerial priorities through individual contracts (see Chapter 5) and re-expressed through a cooperative partnership (see Chapter 6), can shrink to 'what have you done for the minister that's special?'¹³ This is not the normative meaning of 'responsiveness', but it can be the operational one.

Or take 'politicisation'. A recent article by Richard Mulgan offers a useful and much-needed account of the concept as 'understood within the context of the APS Values associated with a professional public service':

In order to be able to offer the same degree of loyal service to governments of differing political persuasions, professional public servants are expected to maintain a certain distance from concerns of their political masters. 'Politicisation' is the term used to describe the erosion of such distance. It marks the crossing of a line between proper responsiveness to the elected government and undue involvement in the government's electoral fortunes.¹⁴

For the public service, the legislated equivalent of this is the requirement under section 10 of the Public Service Act to be 'apolitical, performing its functions in an impartial and professional manner'. As in the case of 'responsiveness', this definition has been elaborated by the Public Service Commissioner:

The role of the APS is to serve the Government of the day: to provide the same high standard of policy advice, implementation and professional support, irrespective of which political party is in power. This is at the core of the professionalism of the APS.

The APS works within, and to implement, the elected government's policies and outcomes. While it is not independent, it is well placed to draw on a depth of knowledge and experience including longer-term perspectives.

Good advice from the APS is unbiased and objective. It is politically neutral but not naïve, and is developed and offered with an understanding of its implications and of the broader policy directions set by government.

APS employees have a role to assist Ministers with their parliamentary and public roles, such as drafting speeches.

In the course of their employment, however, APS employees should not engage in party political activities such as distributing political material, nor should they use office facilities or resources to provide support of a party political nature such as producing political publications or conducting market research unrelated to programme responsibilities.¹⁵

These definitions are altogether consistent with that proposed by Mulgan. Like his, however, they remain 'slippery in meaning because the line [between proper responsiveness to the elected government and undue involvement] itself is often blurred and hard to draw and because charges of politicisation are often part of adversarial political rhetoric'.¹⁶ One of the most common defences against a charge of politicisation, for example, is to treat the word as an indicator of the personal or party agenda of whoever used it.¹⁷ Another means of neutering the concept—described by Mulgan as 'singl[ing] out the more overt form of direct instruction'—is to reduce it to whether or not a government 'issued ... direct instructions to falsify the record'.¹⁸ Consistent with this strategy, analysts who hypothesise the existence of less overt forms of politicisation lay themselves open to being criticised as conspiracy theorists. In any event, to confine an analysis of politicisation to 'who said what to whom, when' simply shifts attention away from institutions to individuals. While there is much to be said at this level, it is often associated with histories of specific events or interactions, generally between individual public servants and their ministers and ministerial advisers. These histories assume that, whether or not specific interactions were proper, there is a normative version of such relationships, one in which the proper line between responsiveness to the elected government and undue involvement is respected. Such an assumption incorporates a further assumption

that both public servants and ministers and their advisers clearly understand their different roles. This has not always been the case.

Ministerial advisers were added to the machinery of government by Labor following the 1972 election. RCAGA itself 'did not generally favour policy advisers in ministers offices'.¹⁹ It recommended instead that where a minister felt the need for additional policy advice, 'it will frequently be more helpful to him if the resources of the department are more effectively mobilised or stimulated to be responsive to his needs'.²⁰ Nevertheless, the Fraser Government did not abolish the institution, although it did cut back on its numbers. The Hawke Government in its turn decided to greatly increase the number of ministerial advisers, which it presented as a trade-off for not proceeding with an election commitment to politicise 10 per cent of the senior executive service.²¹ This trade-off effectively clarified a difference in role between public servants and ministerial advisers. Ministerial advisers would protect public servants from pressure to become politicised by providing those services themselves, from within the minister's own private office. Thus, 'the partisan policy role that had been so controversial and fiercely resisted in the Whitlam period was asserted and legitimised from the outset of the Hawke Labor period'.²² Over time, the policy capacity of the ministerial office was strengthened²³ and the work of the senior public servant became more managerial.²⁴ These changes have continued to test the roles proper to public servants and ministerial advisers, secretaries and ministers, and with them the definitions proper to 'responsiveness' and 'politicisation'.

State of the Service and other data

When asked about their own understanding of their roles, departmental secretaries reported themselves to be mainly 'relaxed and comfortable' about their relations with ministers:

The confidential surveys of Secretaries conducted in recent years by Professor Patrick Weller provide little evidence that 'Australia's mandarins' are intimidated. Every departmental secretary 'declared that the new contract conditions made no difference to the fearlessness of their policy advice' [although, a footnote advises, 'several noted that some of their colleagues were more cowed']. Similarly a confidential questionnaire undertaken by Professor Bob Gregory of 22 Secretaries and Commonwealth government CEOs in late 2003 found that just three agreed with the statement that politicians were improperly involving themselves in the business of public servants. Gregory concluded that 'in the minds of current APS departmental heads the conventions of "traditional ministerial responsibility" are very much alive and well ...'.²⁵

Just how much reliance can be placed on this kind of confidential research is open to question. As far as those further down the line are concerned, a survey conducted in the same year found that, of those public servants who had had contact with ministers and their advisers over the previous two years, 35 per cent had encountered a 'challenge in balancing the need to be apolitical, impartial and professional, responsive to the Government and openly accountable (as per the APS Values) in dealing with ministers and/or ministers' offices', and a further five per cent were unsure.²⁶ The findings of subsequent surveys have remained remarkably consistent with these perceptions.²⁷ The questions put to secretaries and to public servants were differently worded: those put to secretaries concerned the behaviour of politicians generally, and those put to public servants were confined to their own ministers and their advisers. More importantly, the question of possible impropriety is differently put in each survey. The point is, however, that if you are interested in whether systems unduly restrain the provision of frank and fearless advice, you do not look only at those who are at the top of the system. Bureaucratic decision making occurs all the way up (and down) the line.

There are factors other than management systems that constrain decision making, and some of these have a disproportionate impact on lower-level staff. With respect to the challenges to public servants posed by ministers and their advisers, it is undoubtedly the case that the considerable growth in the number of ministerial advisers has increased the penetration of contact between ministers' offices and agencies. According to the *2003–04 State of the Service Report*, at 1 May 2004 the total number of ministerial personal staff was 392, an increase of 89 per cent from the 207 at April 1983,²⁸ following the Hawke Government's decision to appoint political advisers to ministers' offices. There are some simple logistical reasons for this increase, including ministers' needs for additional support following changes in information and communications technology used by media commentators, and the sheer physical size of the office space available following the move to the new Parliament House. The simple fact that numbers of ministerial staff have increased means, however, that there is more scope for interaction between this group and public servants. Technological change—email, mobile phones, SMS, etc.—means that there is increased scope for this contact to be direct, bypassing conventional channels of approach down through the hierarchy, and that the expectation is for short turn-around times.

While the increase in the numbers of ministerial advisers is known, there are no pre-2003 data available on the corresponding increase in the numbers of public servants who are responding to their requests. However, there are relevant data on the classification levels of those public servants being contacted by ministers and their advisers, and the extent to which public servants at different levels have 'experience[d] a challenge' during one or more of those interactions. In 2004–05, 73 per cent of Senior Executive Service employees surveyed reported

having had direct contact²⁹ with ministers and/or their advisers in the preceding year. 35 per cent of their immediate subordinates (executive level employees) and 15 per cent of the lower grades (APS 1–6) also reported having had direct contact with the minister’s office. Given the actual numbers of employees in each of these groups (the APS generally exhibits a pyramidal structure), it appears that individuals in the lower grades who experienced this direct contact outnumbered senior executive staff by a ratio of about 10:1.³⁰ This is contrary to the conventional view of how the system works.

Not surprisingly, executive-level public servants were less likely than departmental secretaries to report being comfortable and confident during such interactions. In 2004–5 one-third of public servants who had been in direct contact with ministers or their advisers in the last 12 months reported that they had only moderate (22 per cent) or very low (10 per cent) levels of confidence that they could appropriately balance the legislated public service values of being apolitical, impartial and professional, responsive to government and openly accountable.³¹ This group is more likely to be on the receiving end of difficult questions than APS-level staff, and less likely to be familiar with the conventions for managing them than the senior executive staff. While confidence in balancing the APS Values was found not to be correlated with age, sex or size of agency, it was correlated with awareness of agreed written and unwritten processes in place in an agency for resolving staff concerns about the nature of requests from ministerial offices.³² This may go some way to further explaining why public servants as a group are less confident than their departmental secretaries in their interactions with ministers and their advisers: they are less likely to be familiar with any conventions or protocols that apply to such interactions—and have less power to assert any such knowledge.

There are some data on the availability of such protocols. For example, many agencies require the purport of oral briefings to ministers or ministerial staff on key issues to be confirmed in writing (including emails or follow-up minutes). Nine large agencies reported in the *2004–05 State of the Service* agency survey that they had this protocol in place—a fact unlikely to have escaped their agency heads—and yet between 37 and 66 per cent of their relevant employees were not sure whether their agency had such a protocol in place.³³ These people may not have known whether they should be keeping records of their oral advice any more than new or untrained ministerial advisers may have known whether they could ask that records not be kept. It is in situations like this that decisions can ‘make themselves’, and that the default response may become responsiveness, where responsiveness has lost touch with any countervailing requirement for apolitical professionalism. Advisers may ask that records not be kept and public servants may see it as their duty to acquiesce. Or, even if public servants are aware that they may be being asked to do something outside usual practice, they

may find it more difficult to decline on the ground of a generalised public service 'professionalism' than on the ground of a formal protocol. In the absence of explicit guidance and responsible leadership, administrative failures may more readily occur, even when no direct pressure is being personally exerted on any individual public servant. However, there are indications that pressure has been exerted by some ministerial offices. Indeed, the *2004–05 State of the Service Report* found that between 12 and 52 per cent of employees in large agencies reported having faced a challenge during interactions with their political masters.³⁴

Claims of 'politicisation' do not take us far into the nature of these interactions, and are counterproductive to the extent that they may be used to deflect or avoid analysis. Most public servants are 'political' to the extent that they understand and have conscious views on the political factors influencing government policies and their application. That may be why they joined the public service or it may be an effect of having joined it. Nearly all public servants are aware that they are bound by law to behave apolitically and accountably.³⁵ Public servants at DIMIA appear to have been particularly well informed in this area. In 2002–03 staff at DIMIA reported the highest levels of participation in training that included an emphasis on the APS Values.³⁶ Nevertheless, at DIMIA, as Palmer (2006) found, 'a strong government policy' flowed through 'rigid attitudes and processes' into poor individual decision making with the consequence that numbers of individuals suffered who should not have suffered.³⁷ To understand failures of due process—in relation to information flow, record-keeping, regulatory decision making or disbursing grants—particularly when such failures occur in politically sensitive environments, it is important to understand the intersection, over time, of the legislated public service values and the actual management systems in which they are applied. The fact that such failures are still largely the exception suggests that individual public servants understand what can happen to principles when they get caught up in administrative machinery, and are prepared to act to sustain what is principled. How long that can continue is unclear.

The purpose of this study, then, is not to probe for conspiracies but to study the present system of public administration: how it positions public servants in relation to the governments they serve, and how 'failures of public administration' can be the outcome. The system itself is presented in the context of the changes that have been made since the introduction of ministerial advisers by the Whitlam Government in 1972 and the tabling of the RCAGA report in 1976. RCAGA is the point that has been identified by previous and current Public Service Commissioners, the former Auditor-General and the former head of the Department of the Prime Minister and Cabinet as a 'watershed in administrative thinking and reforms' whose 'enduring themes have proved to

influence greatly the reforms of the past 25 years'.³⁸ In retrospect, at least, there is agreement on the powerful and lasting influence of the report's three key themes:

- increased responsiveness to the elected government;
- improved efficiency and effectiveness, with devolution and stronger emphasis on results; and
- greater community participation in government.³⁹

Without assuming the existence of a previous golden age,⁴⁰ the discussion is confined to those changes undertaken following RCAGA and consistent with NPM that were intended to enhance the efficiency and effectiveness of public servants and their responsiveness to government. A chronology of reforms between 1975 and 2003 prepared by the Parliamentary Library and included at the end of this volume as an appendix shows that both of the major parties have had a hand in driving these reforms, and that 'successive governments have generally consolidated, or at least tolerated, the changes of previous governments.'⁴¹

The reforms in theory

The Public Service Act provides Australian public servants with a set of principles and a code of conduct to guide their behaviour.⁴² Because the APS Values are principles-based, their application in particular circumstances is broadly up to the public servant applying them; but there are sanctions for failing to conform to them. The *APS Code of Conduct*, at section 13 of the Act, includes a general provision that employees must 'at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS'. Agency heads and the senior executive service are required under the Act to promote as well as uphold both the APS Values and the Code.

The APS Values, in effect, constitute a professional code of ethics for public servants. Nevertheless, the APS Values are the artefact of legislation, and reflect the views of the executive and the Parliament at a particular point in time about the conduct of public administration. Their presence in the Act is indicative of a conviction, common when the legislation was being drafted and still widely held, that the processes and procedures of public administration could be made more efficient and effective if detailed rules were replaced by broad principles coupled with an emphasis on getting results. It was argued that principles-based decision making would enable public servants to remain focused on what is important—what the APS Value at s.10(1)(k) of the Public Service Act calls, comprehensively, 'achieving results and managing performance'—while providing procedural flexibility around how to go about doing it.

The groundwork for this approach was laid in 1976 when RCAGA tabled its report. The report used 'responsiveness' to refer to a public service that listened to community views; 'responsiveness' in the sense prescribed in the Public Service Act was a consequence of its recommendations. One of the 'persistent themes'⁴³ of RCAGA was the need to increase government efficiency, by which it meant both being attuned to government policies and implementing them cost-effectively. Accordingly, RCAGA saw a need to ensure that there was 'clarity in the objectives of the government and in the priority which is to be attached to them' (3.2.2); that 'staff identify themselves with the objectives to which their own efforts are directed' (3.2.9); that 'decision makers at various levels have the scope to exercise initiative within the range of work for which they are primarily responsible' (3.2.3); and that it is understood that 'performance will be assessed and ... officers at all levels are held accountable for their actions and decisions' (3.2.11).⁴⁴ Recommendations emerging from RCAGA and subsequent Commonwealth reviews progressively embraced concepts and practices from the private sector as a means of increasing efficiency, including contract management, corporate planning strategies, and independent evaluation and performance management systems. These systems made possible a transition from managing inputs into public services through centralised agencies such as the Treasury and the Public Service Board, to managing for outputs and outcomes by individual agencies and managers. This certainly meant that 'decision makers at various levels have the scope to exercise initiative' as recommended by RCAGA, but it also meant that they were to do so in the interests of government objectives:

If targets could be set for efficiency, they could equally be set and assessed for attainment of government policy ... While the publicly stated reason for the adoption of the elements of the change was at least in part efficiency, more often than not the changes were an embrace by the political executive of a desire for greater responsiveness. In part, the proposed changes were forcing the political executive and the senior members of the public service closer together, something that had not previously been a central feature of Australia's Westminster system.⁴⁵

In 1984, the Financial Management Improvement Program (FMIP) was introduced to implement management devolution, improved corporate and business planning, increased public accountability and increased emphasis on the evaluation of effective performance. Budgeting and financial accountability arrangements were adapted from private sector practices for government-based systems through mechanisms such as program budgeting (introduced in the 1980s) and the outcomes/outputs framework (introduced in the late 1990s). Reliance on market-based management systems was ratcheted up. Initially this meant increased use of purchaser/provider splits and market testing for many

activities funded through the budget, and commercialisation and privatisation of many activities that were paid for by users (such as Telstra, for example). Some activities were moved out of the budget-dependent sector and into the non-budget sector as they became financially dependent on competitively-based decisions by government agencies.

The financial management changes were complemented by similar changes in personnel management, with progressively increased devolution of authority to departmental secretaries. The overall trend was to treat agencies as separate businesses and departmental secretaries as CEOs.⁴⁶ Between them, the *Financial Management and Accountability Act 1997* and the *Public Service Act* provided departmental secretaries with increased authority with regard to staff management, finances, assets, resources and technology, and performance management arrangements. Employment powers (including those of dismissal) were streamlined, and formal provision was made for secretaries to enter into collective and/or individual employment contracts and agreements pursuant to the Workplace Relations Act 1996. Departmental secretaries were expected to use these powers to put in place a performance management system covering all employees and guiding the movement of their salaries. Such systems were to be results-oriented. They were to be linked to organisational and business goals and to provide employees with a clear statement of what was expected of their performance together with an opportunity to comment on those expectations.⁴⁷

While departmental secretaries were becoming CEOs to their staff, their own relations to ministers were taking on a number of features of private sector employment. In 1976, the Fraser Government had legislated to provide that appointments to the position of the head of a department were to be made on the recommendation of the Prime Minister following a report from a committee including at least two departmental heads and chaired by the Chairman of the Public Service Board. In 1984, the Labor Government legislated to give the political arm of government an increased role in managing and dismissing secretaries, and to remove the appointments procedures put in place by the previous Government on the grounds that they 'are gratuitous and they place inappropriate power in the hands of the public servants involved'.⁴⁸ Instead, departmental heads would be appointed on the recommendation of the Prime Minister, following a report from the Chair of the then Public Service Board. In the same year the Hawke Government amended the Public Service Act 1922 to clarify that department secretaries, no longer 'permanent' heads, were to manage their departments 'under the minister', and would be appointed to particular positions for a term of five years. Immediately after Paul Keating assumed the Prime Ministership in 1991, three senior departmental secretaries were replaced because ministers wanted someone else. The replacements were 'described as having impressed ministers as doers but two had also had close connections with

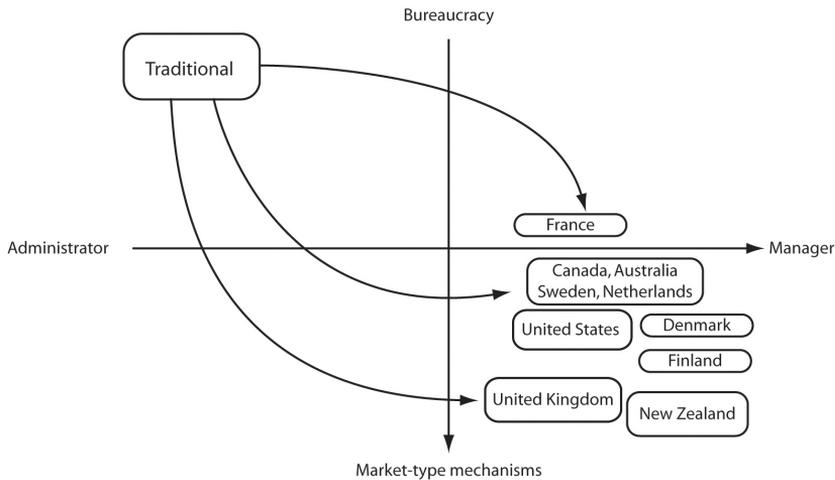
the Labor Party in the past'.⁴⁹ In 1994, the Keating Government introduced contracts for secretaries, and encouraged consideration of contracts for the senior executive service. In 1996, six secretaries lost their jobs directly after the election of the Howard Government. In 1999, Paul Barrett was dismissed as Secretary of the Department of Defence. The reason given was that he had lost the confidence of the Minister, John Moore. Performance pay for secretaries was introduced in 1999.

Australia was not alone in legislating for a responsive and results-oriented management in its public service. Similar packages of financial and human-resource changes were also being embraced to varying degrees across a number of public sectors, particularly those in English-speaking countries. While many elements of NPM were the conventional wisdom of the World Bank and the OECD,⁵⁰ its implementation was not at all a single comprehensive program: it evolved incrementally and exhibited different emphases in different cultural and administrative frameworks. The OECD broadly characterised these changes as implementing a transition from a bureaucratic to a market model:

The market model is based on market-type mechanisms, as opposed to the bureaucratic model, which operates the public service on a monopoly-provider basis. The aim is to let managers manage on terms similar to their private sector counterparts. To promote a performance orientation, the system is subject to market disciplines such as competitive tendering and contracting out, cost recovery, and accrual accounting (including capital costs). It may even go so far as to result in total privatisation of the activity. In some cases performance standards are enforced through individual or institutional performance contracts which exchange operational and/or resource flexibility for accountability for pre-set results targets.⁵¹

In 1997 the OECD undertook 10 country case studies of public sector reform based on the presence of market and market-type mechanisms. On the basis of these studies, it prepared a map matrix positioning the countries along two continuums—a 'bureaucracy versus market orientation' and 'administrator versus manager orientation'—in order to reach a measure of relative degree of performance-oriented priorities (see Figure 1). The map located Australia's position at the end of the Hawke/Keating period as only somewhat less performance-oriented than most other English-speaking countries studied.

Figure 1



Source: OECD

As these paradigm shifts were taking place, there was increasing interest in articulating the APS Values and providing a legislative codification of standards of official conduct within the more devolved and flexible system. The Public Service Board had already published *Guidelines on Official Conduct of Commonwealth Public Servants in 1979*; but that was a consolidated reference document containing the rules and conventions governing ethical conduct. It did not seek to go behind those rules and conventions to articulate values, although of course it did exhibit their application. Some initial work on public service values had been pursued through RCAGA and the Institute of Public Administration Australia (IPAA), with more detailed work undertaken by the then Management Advisory Board and its Management Improvement Advisory Committee (MAB/MIAC). The first official articulation of what was likely to emerge from this process was provided in the 1993 Management Advisory Board (MAB) publication, *Building a Better Public Service*, which summed it all up as follows:

These [public service] values or principles have traditionally stressed the centrality of merit-based staffing, probity and integrity, efficiency, and loyalty to government while providing frank and fearless advice. More recently, additional emphasis has been placed on the need for responsiveness to governments, managing for results and improving accountability.⁵²

In 1994 the 'Public Service Act Review Group' expressed similar views, believing that a new public service act should be built around a mix of ethical and efficiency-oriented principles and values.

The work of the MAB and of the Review Group heavily influenced the APS Values articulated in the Public Service Act five years later. A number of the core 'traditional' principles of public administration that had applied in Westminster systems of government for over 100 years were included in the specific APS Values legislated by the Parliament in 1999 for Australian public servants:

- the apolitical nature of the APS (s. 10(1)(a));
- accountability within the framework of ministerial responsibility to the government, the parliament and the Australian public (s. 10(1)(e));
- impartial, as well as fair, effective and courteous service (s. 10(1)(g));
- the merit principle governing employment decisions (s. 10(1)(b); and
- the highest ethical standards (s. 10(1)(d)).⁵³

The influence of NPM can be found, in particular, in sections 10(1)(f) mandating responsiveness to government—although an attentiveness to government objectives has always been expected of public servants—and 10(1)(k), which reinforces responsiveness by calling for a focus on achieving results and managing performance. MAB was adamant that 'these changes do not imply any retreat from traditional values. Rather, the new and the old should reinforce each other'.⁵⁴

The system in practice

Notwithstanding MAB's expectations, experience has shown that the system is not seamless and its elements are not all internally consistent. In fact, while the traditional Westminster values do tend to reinforce each other, subsequent studies suggest that their intersection with NPM values is less than mutually reinforcing.⁵⁵ According to *The APS Values and Code of Conduct in Practice*, public servants are likely to encounter, in addition to any complementarity between different values, a need to balance the distinct pulls of the old and the new. Under the heading 'Balancing the APS Values' it advises that:

While the APS Values complement each other, there may be tensions between them. No Value should be pursued to the point of direct conflict with another. For example, being apolitical does not remove an employee's obligation to be responsive to the Government and to implement its policies and programs, nor does responsiveness permit partisan decisions or decisions that are not impartial. Compliance with the law always takes precedence over a public servant's obligations to achieve results and be responsive.⁵⁶

In Australia as elsewhere,⁵⁷ conflicts between market-oriented and more traditional public values appear at all operational levels.⁵⁸ At a system-wide level, treating agencies as distinct businesses has the potential to constrain effective whole-of-government management. Agency-specific operating procedures and systems can undermine collaborative practices, just as agency-specific values can undermine the concept of a broader public service. At an agency level, the market model can increase exposure of public servants to values conflicts in areas such as recordkeeping, fraud prevention and outsourcing, as reported in the *2001–02 State of the Service Report*. For example, efficiency agendas encouraging agencies to cut red tape or streamline processes may increase the scope for fraud or compromise probity checks. A focus on benchmarking and performance indicators may encourage practices that actually compromise aspects of service delivery. For individual public servants, common tensions that have been identified include:

- divided loyalties between ministers, public service managers and the public;
- incompatibility between private ethics and impartial exercise of duties;
- private benefits derived from public decisions;
- observance of instructions or actions which might compromise due process; and
- administration of actions which are outside statutory responsibility, or compromise good financial management of a public sector agency.⁵⁹

While these kinds of conflicts are certainly not new, many of the old rule-bound procedures for managing them in practice are gone, leaving the new system dependent on a set of APS Values whose application is often subjective and can drive behaviour in conflicting directions—a good example of what Stewart calls hybridisation:

... the APS Values-mixture that constitutes new public management, as a result of which public servants are meant simultaneously to be professional, efficient, neutral, responsive. The market-oriented values have been overlaid on top of the more traditional public service ethos, to form a hybridized result. Hybrids such as this satisfy the need for an all-embracing rhetoric, although at the practical level, they give little real guidance for dealing with conflict.⁶⁰

In a hybridised decision-making framework not all values are equal. Take the case of the APS Values. The Public Service Act was not designed to embed traditional Westminster values in public service behaviour; the old rule-based system did that just as well. It was designed to insert the Westminster values

into a framework that was fundamentally focused on encouraging responsiveness to government priorities and managing for results.⁶¹ Responsiveness and managing for results are not just APS Values, they are also the rationale behind the decision-making framework itself. In practice this framework has been further reinforced by a number of systems changes characteristic of NPM—such as devolved management structures, contestable policy advice and service delivery, and program budgeting and performance management—that are also about being responsive and delivering results.

As a consequence, values-based decision making in the APS is not simply a matter of individual public servants balancing different APS Values; the supporting systems that are in place situate and orient both reflective and routine behaviours. The idea of striking a balance between different Values suggests that bad decision making occurs when individual public servants make individual mistakes in weighing up issues or fail to recognise that a decision point has been reached. The approach is silent about the institutional framework in which these decisions are made, and how it organises the relations between the administrative and political arms of government. That is why, when taken on their own, the APS Values do not take us far when looking for the causes of systems failures such as those associated with the Departments of the Prime Minister and Cabinet and DIMIA in the case of Children Overboard, or those found by the Palmer and Comrie reports, or the role of DFAT in relation to AWB when overpayments were being made to Iraq.

This focus on individual choice—rather than on the systems and culture within which decision making occurs—is characteristic of public service commentary. The public service tends to shy away from institutional self-analysis unless it is upbeat or can be articulated in such a way as to quarantine the government from criticism. Instead, it offers ‘do it yourself’ advice targeted to individuals or human-resource areas. In the case of the APS Values, public service commissioners have released *Directions* (1999), *Guidelines on Conduct* (2003), *Embedding the APS Values* (2003), *Being Professional in the APS—Values Resources for Facilitators* (2005), and, with particular reference to interactions between public servants and ministers and their advisers, *Supporting Ministers, Upholding the Values*.⁶² These aids operate at the level of principle and convention and advise on how to apply both to situations considered in the abstract. For example, *Supporting Ministers* talks of how to handle requests from ministerial advisers to amend ministerial briefs before those briefs are formally presented as departmental advice. Undoubtedly such situations arise and need to be addressed. And guidance is useful in making it clear that these things happen and that particular responses are appropriate when they do. But, generally speaking, the guidance is silent about how situations such as this are embedded in the institutional context: how do performance assessment and pay, contestability and outsourcing, devolution and technological change, and the new workplace relations

arrangements construct the environment in which such situations arise and are understood, and in which decisions are defined and taken?

Individual agency heads and their senior executive can undoubtedly make a great difference in reducing the negative impact of any agency systems on employee decision making, but the *State of the Service* data cited throughout the discussion suggest that their doing so cannot be assumed. How, then, do the arrangements that have been used to embed these NPM systems in agencies intersect with the APS Values that are intended to characterise the public service? How does this intersection position the people 'down the line' including those at a remove from the offices of their ministers? How does it influence the thousands of decisions that they make, either actively or passively, on a day-to-day basis? More broadly, how do we distinguish a politically aware APS from a politically exposed APS?

The chapters that follow address these questions. They focus on separate NPM reforms but in so doing try to evince the way in which particular systems relate to and reinforce one another. Chapter 2 considers the impact of contestable policy advising and service delivery on public servants' understanding of what it means to be apolitical. How do agencies set about making themselves competitive with ministers' favoured lobby groups in the delivery of policy advice and how are individual public servants expected to add value to this process?

Chapter 3 sets out the role of performance management and assessment systems in further focusing public servants on the implicit and explicit expectations of their ministers, ministerial advisers and senior managers, and how due process can be affected when the implicit and explicit messages they receive are not the same. It raises the scope for a performance focus to cause public servants to be 'looking the wrong way' in cases of systems failure. It also raises the matter of how individual performance agreements can structure information sharing between individual public servants, depending on their position in the food chain and the agencies in which they work. Many public servants are sceptical of the contribution of performance assessment and pay to an agency culture in which the APS Values are upheld and in which individuals work together effectively.

Individual agency systems and cultures have grown in influence as centralised, service-wide controls and protocols have been replaced by agency-specific arrangements. This issue is addressed in Chapter 4. When the process of devolution was first being contemplated it was realised that 'to achieve greater flexibility it was probably going to be necessary to sacrifice many of the aspects of the public service which had provided the 'connective tissue',⁶³ and this is what happened. As 'connective tissue' has weakened, public servants have been increasingly exposed to the disciplines of results-oriented systems. Guidance on appropriate and inappropriate behaviour is the responsibility of agency heads

and their senior managers, as are processes for raising concerns about breaches of public service values. Surveys suggest that in some agencies public servants are in some doubt as to whether agency heads and senior managers (themselves under the discipline of performance contracts) behave in accordance with the APS Values. In the event, both policy advising and due process have been put at risk, and in some cases, compromised.

Chapter 5 examines in particular the workplace relations systems at work in departments and agencies, including individual employment contracts (AWAs) intended to align employee values to those of the agency and its 'ultimate employer', the minister. It also examines other changes to the 'psychological contract' between employees and their agency heads following in the introduction of 'hard' HRM practices. As in the cases of contestability, performance management and devolution when considered separately, these industrial arrangements have the effect of reinforcing responsiveness to short-term demands and drivers, and reducing second thoughts.

Chapter 6 raises more broadly the question of what it is that distinguishes a public servant from other providers of services to government. Since the mid-1990s, NPM has taken contracting organisations into areas of government activity characterised by increasing risk, sensitivity and complexity. In the process it has turned a significant number of public servants—already on performance contracts themselves and increasingly being moved on to individual employment contracts—into contract managers. While public sector providers have been exhorted to behave more like those in the private and community sectors, the latter have been drawn into alignment with government through contracting arrangements emphasising partnership and a community of values. In a devolved environment with tasks specified in contracts, what, if anything, continues to distinguish the work and ethos of public servants from those of the community and private sectors?

These questions are of concern because, although NPM has undoubtedly increased the capacity of public servants to achieve results, it has exposed decision making to new drivers and disciplines that interact in ways that increase their exposure to political direction. This was, after all, the purpose of the exercise. Nevertheless, 'the shift in the last 25 years has been substantial, ... steadily increasing political oversight and expectations of responsiveness by the bureaucracy to the elected government'.⁶⁴ Survey material cited in the course of the discussion that follows suggests that many public servants are disturbed by the extent of this exposure. Some have made bad decisions, either actively or passively, and as a result people outside the public service have been damaged. There is also an impact on Australians more generally. Public accountability goes missing where there is what Bartos (2006) calls 'a systematic lack of capacity

to identify problems, keep accurate records, and draw these uncomfortable problems to the attention of Ministers’.

ENDNOTES

- ¹ See, for example, P. P. McGuinness, ‘A Politicised Public Service?’ *Quadrant* editorial, no 93, Apr. 2007, at http://www.henrythornton.com/article.asp?article_id=4647, viewed 28 Feb. 2008; Robert Manne, ‘The Nation Reviewed’, *The Monthly*, no. 12, May 2006.
- ² The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) has since become the Department of Immigration and Multicultural Affairs (DIMA) and subsequently the Department of Immigration and Citizenship. The earlier acronym is preserved through this study, as it is consistent with references to the agency in the Palmer and other reports.
- ³ See Parliament of Australia, ‘Executive Summary,’ *Senate Report on A Certain Maritime Incident*, 23 Oct. 2002, at http://www.aph.gov.au/senate/committee/maritime_incident_ctte/report/a06.htm viewed 20 Apr. 2006; M. J. Palmer, *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau: Report* (July 2005), 168, <http://www.minister.immi.gov.au>, viewed 13 Feb. 2006; Inquiry into certain Australian companies in relation to the UN Oil-For-Food Programme <http://www.offi.gov.au/> viewed 15 Feb. 2008; and ‘Haneef Inquiry to Go Ahead: Rudd’, *Sydney Morning Herald*, 6 Dec. 2007, <http://www.smh.com.au/news/National/Haneef-inquiry-to-go-ahead-Rudd/2007/12/06/1196812904358.htm>, viewed 15 Feb. 2008.
- ⁴ The current legal definitions of these principles are set out later in this chapter.
- ⁵ Andrew Podger, ‘Looking Upwards and Downwards: Key Issues and Suggestions for Managing Board/Minister/Departmental Relations’, paper presented to the University of Canberra Conference on Governance, Mar. 1996, p 14.
- ⁶ Peter Shergold, ‘Pride in Public Service’, speech to National Press Club, Canberra, 15 Feb. 2006, at <http://www.pmc.gov.au/speeches/index.cfm>, viewed 15 Mar. 2006.
- ⁷ Stephen Bartos, ‘The AWB Affair—Matters of Governance’, National Institute for Governance, 1 May 2006, p. 19.
- ⁸ See, for example, Glyn Davis and R. A. W. Rhodes, ‘From Hierarchy to Contracts and Back Again: Reforming the Australian Public Service’, in M. Keating, J. Wanna and P. Weller (eds), *Institutions on the Edge? Capacity for Governance* (Allen & Unwin: Sydney, 2000), 74–98.
- ⁹ Paul Keating, ‘Performance and Accountability in the Public Service: A Statement by the Prime Minister’, Parliament House, 1 July 1993.
- ¹⁰ For a more substantial discussion, see John Wanna, ‘Public Service, Public Values: The Implementation of a Charter of Values in the Australian Public Service’, Australasian Political Studies Association Conference, Dunedin, 2005; John Nethercote, ‘New Public Service Legislation: The *Public Service Bill 1997*’, Parliamentary Library Background Paper 2 1997–8, 22 Sept. 1997, at <http://www.aph.gov.au/Library/pubs/bp/1997-98/98bp02.htm>, viewed 8 Jan. 2008.
- ¹¹ Australian Public Service Commission, *APS Values and Code of Conduct in Practice: Guide to Official Conduct for APS Employees and Agency Heads* (revised) (Canberra, 2005), Ch. 2. <http://www.apsc.gov.au/values/conductguidelines4.htm>, viewed 22 June 2007.
- ¹² See, for example, Peter Shergold, ‘Goodbye to All that Power’, *Public Sector Informant*, Apr. 2005, p. 2; and Patrick Weller, *Australia’s Mandarins: The Frank and the Fearless?* (Allen & Unwin: Sydney, 2001). A number of political, public service and academic commentators addressed the issue for the ABC production *Corridors of Power: From Mandarins to Managers*, 26 July–30 Aug. 2002, at <http://www.abc.net.au/rn/learning/lifelong/features/corridors/>, viewed 15 Feb. 2008.
- ¹³ As asked of me in a performance assessment session.
- ¹⁴ Richard Mulgan, ‘Truth in Government and the Politicisation of Public Service Advice’, *Public Administration* 85(3) (2007), 570.
- ¹⁵ Australian Public Service Commission, *APS Values and Code of Conduct in Practice*, Ch. 2.
- ¹⁶ Mulgan, ‘Truth in Government’, 571.
- ¹⁷ See, for example, Peter Shergold, ‘“The Need to Wield a Crowbar”: Political Will and Public Service: A Short Historical Discourse on Attempts to Overcome the Perceived Ossification and Inertia of Buttoned-up Public Servants (and Why They’re Now the Better for It)’, Dunstan Oration, Adelaide, 7 Apr. 2005 http://www.dpmc.gov.au/speeches/shergold/political_will_2005-04-07.cfm, viewed 23 Nov. 2005.

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¹⁸ Mulgan, 'Truth in Government', 578.

¹⁹ Maria Maley, 'Australian Ministerial Advisers and the Royal Commission on Government Administration', *Australian Journal of Public Administration* 61(1) (Mar. 2002), 104.

²⁰ Royal Commission on Australian Government Administration, *Report* (AGPS: Canberra, 1976), 105.

²¹ See Weller, *Australia's Mandarins*, 103.

²² Maley, 'Australian Ministerial Advisers', 105.

²³ See Weller, *Australia's Mandarins*, 103.

²⁴ See Maley, 'Australian Ministerial Advisers', 106.

²⁵ Peter Shergold, 'Once was Camelot in Canberra? Reflections on Public Service Leadership', Sir Roland Wilson Lecture, Canberra, 23 June 2004, p. 7, www.pmc.gov.au/speeches/shergold/public_service_leadership_2004-06-23.cfm, viewed 19 June 2006.

²⁶ Public Service Commissioner, *2003–04 State of the Service Report* (Canberra, 2004), 40.

²⁷ According to the Public Service Commissioner's 2004–05 *State of the Service* report, 33% of the relevant population said they had faced such a challenge in the last 12 months, and 6% were not sure (2004–05 *State of the Service Report* (Canberra, 2005), 42). The 2002–03 *State of the Service Report* data is also comparable: about 1/3 of those employees who reported having had contact with their ministers or ministerial advisers in the last two years reported having faced a challenge in that relationship (2002–03 *State of the Service Report* (Canberra, 2003), 42) but the question establishing the relevant population was slightly different in that year: <http://www.apsc.gov.au/stateoftheservice/0203/chapter4.pdf>, viewed 19 June 2006.

²⁸ Public Service Commissioner, *2003–04 State of the Service Report*, 34.

²⁹ 'Direct contact' was defined (p.35) as 'contact in person, by telephone or email'. Employees reported the types of matters on which they came into direct contact with ministers or their advisers (Table 3.1), but because they were able to choose a number of options it is not possible to isolate which classifications addressed which matters.

³⁰ According to the Public Service Commissioner's 2004–05 *State of the Service Report*, SES = 1.6% of ongoing employees by classification; EI = 22.5%; and APS staff, trainees and graduates = 75.9% (p.16).

³¹ Public Service Commissioner, *2004–05 State of the Service Report*, 41.

³² Public Service Commissioner, *2003–04 State of the Service Report*, 40; Public Service Commissioner, *2004–05 State of the Service Report*, 42.

³³ Data on employee awareness of other protocols is set out at Table 3.2 at p.39 of the 2004–5 report.

³⁴ See *2004–05 State of the Service Report*, 42. The number of large agencies involved was 15: see Methodology, pp. 324–5.

³⁵ According to the Australian Public Service Commission, *State of the Service Employee Survey Results 2004–05* (Canberra, 2005), 26, 22, in 2004–05, 83% of employees reported being familiar with the APS Code of Conduct; 17% reported being partly familiar with it; and in percentage terms none reported not having heard of it prior to the survey. Comparable figures for the APS Values were 85%, 14%, and 1%.

³⁶ Public Service Commissioner, *2002–03 State of the Service Report*, 28.

³⁷ Palmer, *Inquiry*, 164–5.

³⁸ Andrew Podger, 'The Australian Public Service: A values-based Service', presentation to 2002 IIPE Biennial Conference on 'Reconstructing "The Public Interest" in a Globalising World: Business, the Professions and the Public Sector, Brisbane, 5 Oct. 2002, at www.apsc.gov.au/media/podger051002.htm, viewed 16 Feb. 2008.

³⁹ Lynelle Briggs, 'APS Governance', keynote address to DEWR Governance Workshop, 22 Feb. 2005, at <http://www.apsc.gov.au/media/briggs220205a.htm>, viewed 16 Feb. 2008; and see Podger, 'Australian Public Service'; Pat Barrett, 'Results Based Management and Performance Reporting—an Australian Perspective', 5 Oct. 2004, at http://www.anao.gov.au/uploads/documents/Results_Based_Management_and_Performance_Reporting1.pdf, viewed 16 Feb. 2008; Peter Shergold, 'Administrative Law and Public Service', Australian Institute of Administrative Law Opening Address, 3 July 2003, at www.pmc.gov.au/speeches/shergold/administrative_law_2003-07-03.cfm, viewed 27 June 2006; and Australian Public Service Commission, *The Australian Experience of Public Sector Reform* (Canberra, 2003), 45.

⁴⁰ See, for example, Richard Mulgan's account of the VIP Affair of the late 1960s as 'a healthy antidote to any nostalgia for a supposedly golden age of public service integrity': 'Truth in Government', 585.

In his book on 'Nugget' Coombs, Tim Rowse notes: 'In 1984, journalist Tom Fitzgerald asked Coombs if the 1940s had been a "golden age" of government that could never be repeated. Coombs agreed': 'The "Responsive" Public Servant: Coombs the Man, Coombs the Report', *Australian Journal of Public Administration* 61(1) (Mar. 2002), 102.

⁴¹ Rose Verspaandonk (revised by Ian Holland), 'Changes in the Australian Public Service 1975–2003', Parliamentary Library Chronology no. 1, 2002–3, 2 June 2003, at <http://www.aph.gov.au/library/pubs/chron/2002-03/03chr01.htm>. Reprinted with the kind permission of the Parliamentary Library.

⁴² For the purposes of the Act, Australian public servants are those employed at the Commonwealth level; states and territories have their own, often similar, arrangements.

⁴³ 'Paper Prepared by the Royal Commission Staff Outlining Major Themes of the Report', in Cameron Hazellhurst and John Nethercote (eds), *Reforming Australian Government: The Coombs Report and Beyond* (Canberra, 1977), 175.

⁴⁴ Royal Commission on Australian Government Administration, *Report*, vol. 1 (AGPS: Canberra, 1976), 33, 34, 36.

⁴⁵ Geoffrey Allen, 'A Different Agenda: The Changing Meaning of Public Service Efficiency and Responsiveness in Australia's Public Services', Doctoral Dissertation, Griffith University, 2005, p. 129.

⁴⁶ See Peter Reith, *Towards a Best Practice Australian Public Service*, Discussion Paper issued by the Minister for Industrial Relations and the Minister Assisting the Prime Minister for the Public Service (Canberra, 1996), 11: 'Their role as Chief Executive Officers, responsible to the Minister for their agency's performance, needs to be explicitly recognised.'

⁴⁷ The Public Service Commissioner's Directions (Ch. 2, 2.12), at <http://scaleplus.law.gov.au/html/instruments/0/26/top.htm>.

⁴⁸ House of Representatives, Debates, 9 May 1984, p. 2152, quoted in Max Spry, 'Executive and High Court Appointments', Parliamentary Library Research Paper 7, 2000–1, Oct. 2000, at <http://www.aph.gov.au/library/pubs/rp/2000-01/01RP07.htm#appointments>, viewed 17 Feb. 2008.

⁴⁹ See John Halligan, 'Labor, the Keating Term and the Senior Public Service', in Gwynneth Singleton (ed.), *The Second Keating Government: Australian Commonwealth Administration 1993–1996* (Canberra, 1997), 55.

⁵⁰ See Organisation for Economic Cooperation and Development, 'Governance in Transition: Public Management Reforms in OECD Countries', OECD/PUMA (Paris, 1995); and World Bank, *Governance and Development* (Washington, D.C., 1992).

⁵¹ Organisation for Economic Cooperation and Development, 'In Search of Results: Performance Management Practices', Feb. 1997, p. 10.

⁵² Management Advisory Board, *Building a Better Public Service*, no. 12 (AGPS: Canberra, 1993), 4.

⁵³ Australian Public Service Commission, *Embedding the APS Values* (Canberra, 2003), 13: 'The values also reflect the role of the APS as an institution in Australia's democratic system of government. Various values within each of the groups reflect the core principles of public administration that have applied in Westminster systems of government for over a hundred years ... Each of these values is critical to the role and responsibilities of the APS. They complement each other in defining the professional behaviour expected of public servants. They are also supported by the provisions in the Code of Conduct', at <http://www.apsc.gov.au/values/values3.htm>, viewed 16 Apr. 2006.

⁵⁴ Management Advisory Board, *Building a Better Public Service*, 4.

⁵⁵ See, in particular, interactions with employment values considered in Ch. 5, p. 99.

⁵⁶ Public Service Commission, *APS Values and Code of Conduct in Practice*, Ch. 1, at <http://www.apsc.gov.au/values/conductguidelines3.htm>, viewed 22 June 2007.

⁵⁷ See, for example, John W. Langford, 'Acting on values: An Ethical Dead End for Public Servants', *Canadian Public Administration* 47(4) (2004), 429–50; Isabelle Fortier, 'From Skepticism to Cynicism: Paradoxes of Administrative Reform', *Choices: Journal of the Institute for Research on Public Policy* 9(6) (Aug. 2003), 13ff.

⁵⁸ See Karen Legge, *Human Resource Management: Rhetorics and Realities* (Macmillan, London 1995), 200.

⁵⁹ Carolynne James, 'Economic Rationalism and Public Sector Ethics—Conflicts and Catalysts', *Australian Journal of Public Administration* 62(1) (2003), 95–108.

⁶⁰ Jenny Stewart, 'Value Conflict and Policy Change', *Review of Policy Research* 23(1) (2006), 188.

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⁶¹ The values also incorporate provisions that were added during the process of reaching bipartisan support for the legislation. The latter (sections 10(1) (l) (m) (n) (o)) deal with employment equity, reasonable community access to APS employment, affirmation of a career-based service and the assertion of a fair system of review of employment decisions.

⁶² *APS Values: Extract from Public Service Commissioner's Directions 1999*, at <http://www.apsc.gov.au/values/directions.htm>; Public Service Commission, *APS Values and Code of Conduct in Practice*; Australian Public Service Commission, *Embedding the APS Values; Being Professional in the APS—Values Resources for Facilitators* (2005); *Supporting Ministers, Upholding the Values* (2006), all available on <http://www.apsc.gov.au/values/index.html>, viewed 19 June 2006.

⁶³ Tony Blunn, 'Public Service values in the New Millennium', *Canberra Bulletin of Public Administration* 107 (Mar. 2003), 29–30.

⁶⁴ Andrew Podger, 'What Really Happens: Department Secretary Appointments, Contracts and Performance Pay in the Australian Public Service', 143.