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**Public Service, Public Values: the Implementation of a Charter
of Values in the Australian Public Service**

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Abstract

This paper examines the tortuous processes through which a charter of ‘values’ was eventually introduced to the Australian *Public Service Act* in 1999. It first charts the political debates and context that shaped the introduction of these ‘APS values’, then evaluates the implementation of these values on a whole-of-government basis. The paper asks: how and why was a specific charter of values imposed on the APS, and how can we evaluate its effectiveness as well as its intended and unintended consequences? It also asks why relatively soon after the introduction of these values there are already proposals for revision and change.

Introduction

Between 1990 and 1999 the Commonwealth government and Australian parliament restructured the statutory basis of the Australian Public Service (APS) – the first major overhaul of the act in 70 years. Revising the act proved to be a tortuous process in which ‘the values’ while ostensibly centre-stage in the new act were often treated as marginal considerations as both the executive and the legislature kept revising their intentions and compromising on the outcomes. That acts are made more complicated by legislative amendment is, of course, not new, nor that such complications have made the implementation of the act more difficult. One consequence of this is that we have already heard calls for its revision.

The new act transformed the Australian Public Service from a rule-driven, centralized bureaucracy with standardized grades and pay rates, to a values-based, decentralized administration with devolved management flexibilities. A ‘core of statutory Values’ now *defines* the new public service at the Commonwealth level, and under the act the Australian Public Service Commissioner is required to ensure that the APS ‘incorporates

and upholds the APS Values' (*Public Service Act* s.11.1(a)). Significantly, 'the 1999 Act contained, for the first time in primary Commonwealth public service legislation, a clear declaration of APS values' (Minns/APSC 2004: 196).

In an example of bipartisan consensus, both the Labor and Coalition governments urged the adoption of a new public service act. Both also favoured the use of an 'enabling legislative approach' (or less prescriptive statute) where the fundamental principles and relationships are enacted in generic terms with few details of employment included in the statute. While Labor in government (especially over the years 1990 to 1996) preferred a more detailed and prescriptive approach, the Coalition when it formed government in March 1996 was prepared to entertain a generic approach which expressed the essential aspects that would apply to the public service (Lamond 2005).

The old prescriptive act of 1922 (as amended) ran to 280 pages by the early 1990s, and was laced with 97 major sections many of which were subdivided into parts A, B, C, D, E, etc. – including one section 76 that ran to through to Z. It also included sections outlining the many definitions, interpretations, schedules and notes. It became the epitome of a regulator's dream. By contrast, the new act has but 11 parts (and 79 sections some of which are only two lines of text) and runs to 47 pages (and many are not full pages). It is now only a fraction of the heavily amended 1922 act that grown exponentially by governmental and industrial amendment. The government claimed success in 'proposing a wholly new conceptual framework with the aim of producing a contemporary piece of legislation which will enable the Australian Public Service to meet future challenges' (PSMPC 1996: 7).

For the first time the *Public Service Act 1999* codified a series of *values*, some of which while not exactly aberrant were a little 'hit and miss' with many key players seemingly making things up as they went along. The process of finalising the public service values was akin to a game of musical chairs – where a number of potential values, manners and platitudes were thrown into the ring but where periodically not enough chairs remained for the inclusion. Some of the earliest intended 'values' were quietly abandoned; while other 'values' that made it into the final act did not appear to be values at all (eg the requirement to treat clients courteously or allow all eligible members of the community to apply for APS employment). Since the passing of the 1999 act there has been some criticism of the final set of values enacted, and many senior officials have subsequently queried whether the package of 15 multifaceted values actually provided a coherent and effective basis on which to manage the Australian Public Service (Podger 2005).

Antecedents of the Value-based Approach

Criticisms of the *Public Service Act 1922* increased from the mid 1960s as government responsibilities expanded and demands for more flexible working arrangements emerged (Smith and Weller 1978). The findings of the Coombs Inquiry (1974-76) and the later Reid Review of Commonwealth Administration (1982-83) both spurred this criticism and advanced the mood for change – despite little immediate action in the old act being taken after either review by governments (Hazelhurst and Nethercote 1977). Moreover, neither

Coombs nor Reid actually proposed a values-based approach to managing the public service (although Coombs advocated the key values of efficiency and representativeness, and Reid urged the principles of management flexibility and devolved decision-making).

Arguably governments responded in the short term to these management reviews by augmenting the old act and by adding additional layers of regulations {for example, the addition of the *Merit Protection (Australian Government Employees) Act 1984*). But gradually momentum rose to review the entire *Public Service Act* and establish the Commonwealth service on a new legislative basis. Important catalysts in this process were the work and orientation of the Efficiency Scrutiny Unit (1986-87 headed by David Block) and the abolition of the Public Service Board in July 1987. The Hawke government's failure to enact the 'Distribution of Powers' Bill in the late 1980s (a measure that sought to devolve central powers over the public service to agency heads) also underscored the need for change. The abolition of the Public Service Board in 1987 was also a contributing factor. And in its early years the new Public Service Commission also produced a draft new act in 1990-91 that was based on 'proposed principles of public administration, human resource management and ethical conduct, drawing on principles then expressed in the South Australian Government Management and Employment Act' (Minns/APSC 2004;196).

The immediate vehicle of change was the 1994 McLeod review group that reviewed the *Public Service Act 1922* (see Nethercote 1997). The McLeod Public Service Act Review Group (PSARG) was established by the Keating government in 1994, following the reports of *The Australian Public Service Reformed* (1992) and *Building a Better Public Service* (MAB 1993) – the latter of which proposed a list of six 'key public service values'. The PSARG's terms of reference explicitly required the review to make recommendations 'to provide a modern and flexible management framework' (McLeod 1994: 153). In calling for a comprehensive review of the act, the government's terms of reference listed six key attributes the government expected of its public service. These were:

- Provides governments with responsive service and frank and comprehensive advice;
- Is efficient and effective in producing results specified by Ministers and governments;
- Has staffing principles and practices based clearly on merit, ensuring equality of opportunity with fair rewards as an incentive to high performance;
- Is based on the highest standards of probity, integrity and conduct;
- Is fully accountable; and
- Is able continuously to improve its performance and that of its members (McLeod 1994: 153).

These six attributes corresponded closely with the six key values listed in the *Building a Better Public Service* report.

According to McLeod the key characteristics of the traditional career public service were five-fold – it was a dedicated vocation; its 'functions and responsibilities were essentially

different from those of other occupations and require different skills'; it operated with a hierarchical structure; had uniform pay, regulations and work conditions; and 'has a shared set of values' (McLeod 1994:11).

This notion of a 'common set of values' was repeatedly acknowledged in the report, but other than repeating those listed in the *Building a Better Public Service* report, the McLeod team did not delve into their origins, the basis for them or the nature of them in operation. Some general 'philosophical underpinnings' were discussed but it was not clear whether these values were traditional core values of a Westminster-Weberian career service (historical nostalgia) or a forward-looking set of values intended to lead the public service in the future. Instead of arguing the merits of a value base to the APS, the McLeod group was content merely to assert a selective sample of values attached to the report in a separate appendix. The review's recommended draft legislation (*Preliminary Draft of the Principal Provisions of a New Public Service Act*) did not include a mention of values, nor did it propose a set of values as the basis for the new act. It did, however, sprinkle in some value sentiments in the various sections of the proposed draft bill (such as 'serve Ministers and the Government loyally and impartiality' (B1a); or 'provide frank, honest, comprehensive and accurate advice' (B1b) and 'no favour or patronage preferred upon any person' (D2a) – McLeod 1994:159 and 162).

The importance of these 'key public service values' subsequently became paramount once the McLeod group opted to replace the highly regulatory act of 1922 (as amended) with a far more streamlined 'enabling' legislative approach, which as a matter of course required the articulation of some essentialist framework – likely to be the core values and codes of conduct. McLeod opted for this 'enabling' legislative approach based on principles not detailed provisions because the government wanted less centralized prescription governing the organisational practices and employment provisions in the public service. His draft skeletal legislation (containing just five parts and 14 sections) was meant to facilitate the devolution of controls while expressing the main principles by which the service would be run (McLeod 1994: 157-165). [This 'enabling' approach to statutory design has now becoming more commonplace – eg environmental legislation, and the mooted tax law review].

Some of the values were inspired by or confirmed through the extensive consultative process the PSARG undertook. The review group called for submissions (and received 19 departmental submissions, 23 from other government agencies, 3 from unions, and 8 from individuals or other organisations). The group also held discussions with regional directors and with officials in other jurisdictions and with the major public sector unions. Towards the end of their consultations the review group appeared a little overwhelmed or confused by the amount and complexity of the issues/submissions and conducted a series of workshops to distill the issues and essential aspects of the public service. Many submissions were diverse and collectively contradictory (management freedoms versus employee protections). A further reason for this confusion was that the Labor government had included two union representatives in the review group and they had 'a big presence in the review process moderating the changes to suit their own agenda' (Lamont 2005). Nevertheless, it appears that many of the values (and specific wording of

them) declared by the McLeod team were framed in consultation with these key participants.

The McLeod review represented perhaps the first major attempt by executive government to codify public service values. In its report of December 1994 the review team included 14 recommended 'key public service values' clustered under the same six clusters issued in the terms of reference (responsiveness, results, merit, integrity, accountability, and continuous improvement. [see Appendix 1 for the 'Key Public Service Values' listed by the McLeod review group). Interestingly, the McLeod review included '**loyalty**' in its recommended values and the necessity of '**avoiding real or apparent conflicts of interest**'. It also insisted the public service should provide '**frank, honest and comprehensive advice**', but did not mention fearless advice. New values appeared to enter almost arbitrarily; such as 'striving for creativity and innovation', 'making individual and team performance count' and being 'courteous' to clients (McLeod 1994: 141-2). Surprisingly, it did not include 'apolitical' in its list of values. Nor did it include mention of a 'career public service'; nor did it highlight the collective service, or collegiality or the service-wide nature of serving governments. And the words: 'serving loyally and impartially Ministers and the Government' was preferred to any notions of neutrality or career permanence. In short, McLeod's list of values represents a milestone attempt to collate and codify background philosophies, but it was certainly not definitive or comprehensive. Some seemed arbitrary and contextual.

But McLeod's report nudged forward what became a bipartisan desire to rewrite the *Public Service Act*, but the values McLeod presented were chopped and changed through the unfolding legislative process.

The Peregrinations of the 1997 Public Service Bill

Labor was preparing to adopt the McLeod's recommendations when it was comprehensively swept from office (a fate the government widely expected – which may have eroded its desire to invest much political capital in long-term fundamental reform such as the major overhaul of the *Public Service Act*). The new Coalition government moved relatively quickly to keep the momentum moving – largely due to the Industrial Relations minister Peter Reith's interest in the issue and the campaign by the then Public Service Commissioner, Peter Shergold, to insist it was the values of the APS that defined its character. Two further discussion papers were released in November 1996 – *Towards a Best Practice Australian Public Service* (MAB 1996) and in May 1997 *The Public Service Act 1997 – Accountability in a Devolved Management Framework* (PSMPC 1997). Again extensive discussion around these documents was structured into the process largely initiated by the Public Service and Merit Protection Commission and the Department of Industrial Relations. These discussion papers and consultations reaffirmed that the '*Public Service Act 1992* needs to be substantially rewritten' (PSMPC 1997 in CBPA No 85. 1997:7). The second discussion paper advocated a 'wholly new conceptual framework' that was based on a 'core of statutory Values, encompassing qualities such as political impartiality, high ethical standards, workplace equity and

employment decisions based on merit' (1997: 8). The May 1997 paper then listed **ten proposed values** that became the basis for the act, but were not identical with those presented by the government in August 1997.

Specifically, the ten values included statements that the APS 'exercises employment decisions without patronage, administrative favouritism or political influence', and 'is accountable for the manner in which administrative power is exercised' and 'develops and maintains professional leadership through a Senior Executive Service, which is appointed on an open and competitive basis'. None of these value statements made it into the original 1997 Bill in their original wording (although a revised leadership value was retained – 'the APS has leadership of the highest quality' see CBPA 85, 1997:25). Significantly, the Coalition's second discussion paper explicitly removed many of the union-inspired value commitments that had been included in the McLeod process (in particular the commitment to provide 'fair and reasonable rewards' and 'ensuring equality of opportunity'). Less explicitly, it also removed the clarification clause under integrity and conduct of: 'avoiding real or apparent conflicts of interest'.

Later the government would concede some concessions on these union-oriented sentiments including in the final act; first by agreeing to include a statement that 'the APS establishes **cooperative workplace relations** based on consultation and communication' (s. 10(i) in the original bill – emphasis mine), and second by accepting a legislative amendment to the final wording of the bill that 'the APS establishes **workplace relations** that value communication, consultation, **co-operation and input from employees on matters that affect their workplace**' (emphasis mine) – an amended insertion that eventually became clause 10.1(i) in the 1999 Act.

When the Minister for Industrial Relations, Peter Reith, introduced the Public Service Bill 1997 in June he indicated that the Coalition accepted many of the McLeod recommendations – but wished to push the trajectory of reform further and reduce the influence of public sector unions on the legislative framework. The Howard government approached APS reform from a cost and efficiency perspective, primarily emphasising greater flexibilities and devolved responsibilities. Unlike McLeod, the MAB group or the PSMPC who all had placed great store in the importance of a values-based approach, the Coalition did not stress the notion of a universal, comprehensive set of core APS values. To the new government, values were acceptable but were not to be the tail that wagged the dog.

In the minister's second reading speech he expressed contradictory sentiments and inconsistent reasons for the changes. He voiced his intent to make management and employment in the APS **identical to private sector practice**. Above all, Reith proposed 'to put employment practices in the APS on **a similar footing to the private sector**' (HoR 1997, p. 6462). He argued that 'at present the **costs of managing** the APS are more than double that of best practice in the private sector' (p. 6462). The minister's intentions were framed around the ACEPS study data, that had been used to make the case that the APS should be as much like the private sector as possible consistent with the need to maintain overall accountability.

On the other hand, Reith spoke of ‘a wish to ensure that the traditional ethos, conduct and values of public service are preserved’ (p. 6463). According to the minister, the new bill ‘protects the distinctive ethos of public administration’ (p. 6465). It also ‘reinforces the values of the public service, in a way that has never been done before’ (p. 6463). The new bill would ‘provide an effective legislative basis for public accountability’ by linking broader APS values to the personal code of conduct and then making agency heads and other employees responsible for upholding these standards. Hence, the minister informed parliament that the new act explicitly states that the Public Service Commissioner ‘will issue directions to secretaries to ensure that employment decisions are based on merit and fairness. Agency heads and APS employees will be required to comply with these directions, as well as with the APS values and code of conduct’ (p. 6464).

At this stage of the process the government now listed 11 separate values – ‘to which [the APS] should aspire’ (p. 6466). All were intentionally minimalist and succinct. The eleventh value (added to the earlier ten included in the PSMPC paper of May 1997) was an employee/union concession, recognising that ‘the APS establishes cooperative workplace relations based on consultation and communication’ (s. 10 (i)). It also listed 13 criteria applying to individual officers under the Code of Conduct (a code that survived virtually intact through the parliamentary process (only two minor wording amendments were made to clause 13 (3) and 13 (9)).

Significantly, in expressing what the government wanted from the public service, Reith argued that the Prime Minister John Howard had made it clear that ‘our government wants to provide a workplace in which public servants offer advice in a **frank, fearless and honest manner**’ (pp. 6463-6464 – emphasis mine). But this noble statement from the Prime Minister was not included in the list of values contained in the original wording of the bill. Rather the bill proposed to include the euphemistically worded clause (s10f): ‘the APS is responsive to the Government in providing timely advice and implementing the Government’s policies and programs’. There was no mention of frank and fearless advice or even in an honest manner. The APS was required only to offer ‘timely advice’.

Although the 11 values proposed by the government in its original 1997 bill were based on the McLeod recommendations and the May 1997 discussion paper by the PSMPC, Reith had edited out the words the government considered contentious or misplaced. For example, Reith’s version of the values omitted any mention of the earlier MAB/McLeod recommendations for ‘loyalty’, for the service ‘**providing frank, honest and comprehensive advice**’, for ‘**pursuing efficiency**’, ‘**ensuring equality of opportunity**’, working ‘**conscientiously**’, ‘**dealing equitably, honestly and responsively with the public**’, and ‘**avoiding real or apparent conflicts of interest**’. Nor did the Coalition seek to incorporate the term ‘**career public service**’ or the role the public service played in ‘**Australia’s democratic system of government**’. Yet, with some important variations, these 11 values became the basis of 15 values eventually passed in the 1999 Act.

The reception to the Coalition's 1997 Bill was generally sympathetic and constructive – one former secretary and head of the Prime Minister's department, Lenox Hewitt, was an extreme critic describing it a 'the end of civilization as we know it' and signing a copy of the draft bill with this phrase included for the minister (see Hewitt 1997). The Bill was referred to both the JCPA and the Senate Finance and Public Administration Legislation Committee both of which were generally in agreement with the Bill but simultaneously proffered extensive amendments. In particular, the JCPA urged a strengthening of the APS values 'particularly in relation to the provision of frank and honest advice' and in relation to 'merit as a fundamental principle' and of 'workplace diversity programs'. In the Senate the Democrats' Lyn Allison agreed with these sentiments, writing a dissenting report arguing that the APS values were 'agency-based' and focused on a 'private sector style of management' that 'may have the effect of undermining important public service values'. She argued 'we do not believe the APS Values reflect the wider role of the APS in implementing legislation passed by the parliament and serving both the public and the public interest' (Allison 1997).

However, the significance of the values statements did not always figure prominently in the attention given to the new Bill. John Nethercote in a background paper to the Public Service Bill 1997 talked about the new Bill being a 'general embodiment of current thinking about public service management'. He included under the heading of current thinking: direct ministerial control especially prime ministerial control, agency based management, a focus on outcomes, significant efficiency gain, revival and re-establishment of management prerogative, a reduction in union influence, and minimal distinction between the public service workforce and private sector employment (Nethercote 1997:3). He argued that the '1922 Act provided a framework for a "unified public service"; the 1997 bill provides a framework for departmentalized services' (Nethercote 1997:9). The introduction of codified values or the specific scope/wording of these values did not warrant attention or comment. He noted in passing that the McLeod report provided a 'stronger charter than that which emerged in the "APS Values"' (1997:10).

Reith's Bill lapsed after a tortuous process of amendment by the JCPA and Senate. In December 1997, Reith indicated in parliament that the government rejected the amendments and would reintroduce the Bill – and if rejected would thereby enable the Bill to be considered at a joint sitting if a double dissolution were called. The Bill was again rejected and laid aside in April 1998. Reith (and the Public Service Commissioner Peter Shergold) made a major effort to pull together the ideas and consultations into a generic 'enabling legislation' which devolved most functions, powers and responsibilities to agency heads. Despite moving on to become the Defence Minister in the second Howard government, Reith maintained an ongoing interest in the legislative reform of the public service.

The Reintroduced Public Service Bill in 1999

David Kemp, Minister for Education, Training and Youth Affairs – and Minister Assisting the Prime Minister for the Public Service (the first time these two ministerial responsibilities had been so linked) reintroduced the legislation on 30th March 1999. The Bill was identical to the 1997 Bill. Again the same amendments were forthcoming from the Opposition and Democrats. Initially, the government for a second time rejected these amendments. At Reith's urging, Kemp then began negotiations with the Opposition and accepted around 50 amendments from the 102 made by the non-government parties. The government's tactic under Kemp was to accept relatively innocuous amendments that did not strike at the heart of the legislation (that did not undermine the government's intent in providing workplace flexibilities and managerial discretion). He employed a 'no disadvantage rule' to the government in considering the amendments – accepting those that did not impact on flexible workplace relations and rejecting those that did or were likely to reintroduce impediments. Hence, in the negotiations carried on between Kemp's office and Senator Faulkner's staff, a number of amendments to the generic values were accepted by the government. In the end, the wording of 5 of the original 11 listed values was changed on amendment, and significantly four new values were added and accepted. In total, 15 values were enacted.

The main changes Kemp agreed to were:

- The APS 'recognises and utilises the diversity of the Australian community it serves' (s. 10.1(c))
- The APS is 'openly' accountable for its actions 'within the framework of Ministerial responsibility' (s. 10.1 (e));
- The APS is responsive to the government in providing 'frank, honest, comprehensive, accurate and timely advice...' (s. 10. 1 (f));
- The APS delivers services 'fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public' (s. 10.1 (g));
- The 'APS establishes workplace relations that value communication, consultation, cooperation and input from employees on matters that affect their workplace' (s. 10.1 (i)).

Four new values were inserted some of which are either implied or covered in the earlier list of 11 but were made explicit. The last is arguably not a value but is a procedural expectation or entitlement. These additional four are:

- 'The APS promotes equity in employment' (s. 10.1 (l));
- 'The APS provides a reasonable opportunity to all eligible members of the community to apply for APS employment' (s. 10.1 (m));
- 'The APS is a career-based service to enhance the effectiveness and cohesiveness of Australia's democratic system of government' (s. 10.1 (n)); and
- 'The APS provides a fair system of review of decisions taken in respect of APS employment' (s. 10.1 (o)).

An additional sub-section (s. 10.2) was made to the values section providing four criteria for the definition and application of engagement or promotion on merit, including the ambiguous clause 10.2(d) 'the assessment is the primary consideration in making the decision'. The definition of merit was changed from 'best person for the job' to 'relative suitability of the candidates for the duties' (10.2 (a)).

The Impact of a Values-based Public Service after 1999

The 1999 Act is a strange amalgam. It combines both the political executive's vision for the public service in the future, with the input of senior APS officials and employees, and melded with the peculiar amendments of an active legislature. In terms of deliberative democracy the passage of the Bill appeared to be democracy at work with wide community and cross-party involvement in writing the clauses of the new act. However, in management terms the new statutory values may not make the task of management easier or more consistent. It is also not clear how these diverse values relate to the associated code of conduct that governs the behaviour of public servants (s. 13 (1-13)).

Individually, the enacted values are neither aberrant nor perplexing. Most of the sentiments expressed have been traditionally associated with the public service or have been augmented as our societal values have changed over the past 20-30 years. But together, the particular combination and range of values assembled in the 1999 Act seems incoherent and the values endorsed appear a little haphazard. The inclusion or exclusion of certain value expressions was a process of bargaining and trade-offs – with some missing out in the final rounds while others found their way into the act. Certainly, in both the executive review process and the later legislative process there was an element of creative design to the whole exercise. Commenting on this Minns adopts a sanguine view:

The Values are tailored to the particular environment and circumstances of the APS. As might be expected, however, their ultimate expression represented an effective drawing together of developments in the 1980s, and successive inputs from other sources through the 1990s (Minns/APSC 2004: 196).

How far the 1999 act represents 'an effective drawing together' is a moot point; and the fact that few senior officials seem to share this view and that the new act is already under review would imply that some further 'drawing together' is desired.

Some argue that there are now too many values and they are too diverse. With 15 values now included in the act, the number and content are generally too difficult to remember. Many senior managers cannot remember all of the values or have a hazy recollection of what is included. Some officials often believe that 'frank and fearless advice' appears in the values – when this expression was never included in the protracted drafting process. The APSC (under Andrew Podger) has already produced a clustering of the values – in a similar way to the clustering the McLeod review group produced in 1994 (APSC 2003). This clustering categorises the values into four groups: those concerning the relationship

with government and parliament; those with the public; those with workplace relations; and those concerning personal behaviour.

Others argue that the values are internally inconsistent and occasionally duplicated and overlapping – a factor made more difficult by some agencies having their own customized values.ⁱⁱ Nuances can creep in when interpreting what similar-sounding values can mean. It is argued that some of the values are redundant (eg ‘highest ethical standards’, ‘equity’, ‘free from discrimination’), or can be contradictory (eg ‘apolitical’ and ‘impartial’ yet ‘responsive to the government’, or ‘based on merit’ and ‘promotes equity in employment’). There are tensions or some disjoint in the values between the values that require the achieving of results and management performance, highest quality leadership, effectively delivery of services, *and* commitments to promote the highest ethical standards, fairness, courteousness, consultation and cooperation in the workplace. There is also the familiar clash/combination of values promoting results and performance on the one hand and diversity, equity and fair review of employment decisions on the other.

There are also different emphases expressed in the 15 aspirational values (listed in section 10) and the statutory ‘code of conduct’ listing 13 clauses in section 13. Some common statements appear in both – such as the requirement to be honest or act courteously to the public. This must have been of some importance to the proponents of the new act as courtesy would normally be considered a component of professional behaviour and highest ethical standards. Other clauses of the code express different versions of the values (eg values about professionalism, performance, and accountability, become ‘an APS employee must act with care and diligence in the course of APS employment’ and ‘use Commonwealth resources in a proper manner’).

Other last minute items were written into the values that make subsequent interpretation more difficult. For example, the value requiring the APS to be ‘openly accountable for its actions’ then includes the phrase ‘within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public’ (s. 10.1(e)).

Not long after the new Act came into operation (on 1st January 2000) there were remarks made publicly by senior officials about the need for a review of the act. And after only five years under the new regime the new Act is being reviewed by the APSC (second half of 2005). Some have advocated adding more values – on the logic that some important values were missed in the review process and should now be added. The values of **loyalty** (ie no-leaking) and **commitment** or **collegiality** have been mentioned as possible values for subsequent inclusion. So has a commitment to a ‘whole of government’ approach. There has also been some discussion about whether some mention of the public interest should be included.

This raises some important philosophical questions about the values – are they meant to be important, enduring almost timeless moral determinations to which we have chosen to subscribe – or are they amenable to change, able to be replaced and supplemented at short notice.

Finally, I mention three points by way of conclusion. The new act embraced the notion of 'a career-based service' but does not define what this means – especially in the context of devolved workplace terms and conditions and contractual based employment. Arguably, many currently serving public employees do not view the public service as a 'career-based service'. Tenure no longer applies and terminations can occur, and contractual employment is more pronounced.

Second, the move to a values-based service has largely been accepted as unremarkable and non-controversial. The new act has not led to a plethora of complaints about officials not abiding by the values in agencies. There has been almost no cases of whistleblowing about values being breeched or evaded. Even complaints or grievances involving alleged non-compliance with the values are very rare and usually relate to something else more tangible (personality disputes, authority issues).

Third, few other jurisdictions have yet copied the Commonwealth's enabling approach to the management of their public services. The 1999 Act has not proved to be a model for other jurisdictions in their own legislative review. Tasmania is one exception among the Australian states, as is Thailand in the region. But other comparable Westminster systems have not chosen to replicate this approach (eg the other Australian states, the UK, Canada, New Zealand).

Appendix 1

Key Public Service Values

(as listed in *Building a Better Public Service* (MAB 1993) and the McLeod Report, *Report of the Public Service Act Review Group* 1994).

1. Responsiveness to governments
 - Serving loyally and impartially Ministers and the Government; and
 - Providing frank, honest and comprehensive advice.
2. A close focus on results
 - Pursuing efficiency and effectiveness at all levels; and
 - Delivering services to clients conscientiously and courteously.
3. Merit as the basis for staffing
 - Ensuring equality of opportunity; and
 - Providing fair and reasonable rewards as an incentive to high performance.
4. The highest standards of probity, integrity and conduct
 - Acting in accordance with the letter and spirit of the law;
 - Dealing equitably, honestly and responsively with the public; and
 - Avoiding real or apparent conflicts of interest.
5. A strong commitment to accountability
 - Contributing fully to the accountability of the agency to the Government, of the Government to the Parliament and of the Parliament to the people;
 - Fully supporting the administrative and legal measures established to enhance accountability; and
 - Recognizing that those delegating responsibility for performance do not lose responsibility and may be called to account.
6. Continuous improvement through teams and individuals
 - Striving for creativity and innovation; and
 - Making individual and team performance count.

(Source: McLeod 1994:141-2)

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ⁱⁱ For example, Centrelink sought to define and promote their own organizational values before the 1999 Act was passed. Some of these agency values do not match up with the statutory values in the Public Service Act, creating further confusion for public servants about which values they are to promote. From a central agency perspective, such devolved developments may further proliferate the number or interpretation of the values and encourage isolationism where individuals in agencies only respond to their customized values.