

Learning from Failure

**Why large government policy initiatives
have gone so badly wrong in the past and
how the chances of success in the future can be improved**

An independent review of government processes for implementing
large programs and projects by Professor Peter Shergold AC

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Letter of Transmittal

The Hon Greg Hunt MP
Minister for the Environment
Parliament House
CANBERRA ACT 2600

Dear Minister

In accordance with the Terms of Reference issued to me on 24 December 2014, I have undertaken an independent review of government processes for implementing large programs and projects, including the roles of ministers and public servants.

As requested, the review has taken account of the findings and recommendations of the Royal Commission into the Home Insulation Program, the report of the Independent Audit of the NBN Public Policy Processes (the Scales Review), and best practices in Australia and internationally.

I have pleasure in presenting you with my report, *Learning from Failure: Why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved*.

I very much appreciate the opportunity you have given me to consider such important issues. You will note that whilst I have come to conclusions as to how to improve the management of major projects I have not made recommendations to the Government. My strong preference is that the review be made widely available for public comment and discussion. I hope, in particular, that the views of the Australian Public Service on its proposals will help to inform the Government's response.

In preparing this report I was assisted by a secretariat drawn from a number of Australian Government agencies. I record my appreciation for their insights, commitment and enthusiasm. I also express my thanks for those who met with me and the secretariat over the course of the review, and I am particularly grateful to the peer reviewers who commented on an earlier draft of this report.

Yours sincerely



..... jold AC
12 August 2015

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Terms of Reference

1. The Government has asked Professor Peter Shergold AC to lead an independent review of Government processes for the development and implementation of large public programmes and projects, including the roles of ministers and public servants.
2. The Review will make practical recommendations to enhance the capacity of the Australian Government to:
 - a. Design and implement large public programmes and projects;
 - b. Develop robust and effective governance and accountability arrangements for such programmes and projects;
 - c. Understand the broader environment in which programmes and policies are design and implemented (including through effective public consultation and harnessing external expertise);
 - d. Identify, understand and manage risks; and
 - e. Provide accurate, timely, clear and robust advice to ministers and within the APS.
3. The Review will take account of the findings and recommendations of the Royal Commission into the Home Insulation Program, and the report of the Independent Audit of the NBN Public Policy Processes (the Scales Review).
4. It will take account of best practices on the nature and effectiveness of public policy processes and the implementation of large public programmes and projects in Australia and internationally.

24 December 2014

The Future: Avoiding Repetition of Failure



Executive summary: 28 proposals for improvement

A PROVIDING ROBUST ADVICE

Good government is founded on good policy, and good policy depends on good advice. One of the Australian Public Service's (APS) core roles is to provide advice to support the government of the day so that it can deliver its policy agendas and priorities. Senior public servants

advise not only on the design, but on the delivery and evaluation of major programs and projects. They recognise that they should be held accountable to their ministers for the quality of advice that they provide. The APS holds a position of unique access to ministerial decision-making. It enjoys positional authority. Nevertheless, it must deliver well-argued and persuasive advice if it is to maintain influence with government. Counsel must be responsive and timely. It needs to acknowledge political direction. It must be strategic, providing a wider context for particular decisions. It must be frank and fearless.

Ian Hanger AM QC

*"The APS ought to reinvigorate its willingness to provide, in writing, advice that is as frank and robust as the advice it is willing to give verbally. . . What the process has revealed is a quite inadequate system of document management and record keeping."*²

Good advice is factually accurate and backed by evidence. It presents proposals based upon considered interpretation of alternative viewpoints and often reflects multiple perspectives. On occasion the APS appropriately provides a range of options to government, but it must not be afraid of taking a position on what is regarded as the best path forward. Fortitude is required. Sir Humphrey Appleby, in his inimitable style, would counsel against action by describing a proposed ministerial decision as 'courageous.' In truth, it is Secretaries who must be willing to exhibit courage.

Openness and transparency are fundamental to good government. There is room to further improve public access to information that is held by government. There is a strong public interest case for citizens being able to know the basis of decisions that affect their access to services. There is considerable value, too, in publishing as much publicly-collected data as possible and making it available to citizens to use and apply as they want through a 'Creative Commons' license. This is the basis on which this Review is released.

At the same time, it is imperative that governments be allowed a measure of confidentiality in the policy-making process. Without free and uninhibited exchange of views between ministers and senior public servants, good public policy is jeopardised. Policy debate depends upon mutual trust and respect between both sides. That depends on arguments taking place in private. Deliberations on matters of policy, whether oral or in writing, need to be kept in confidence.

Where there is a risk of advice being made public, sensitive topics are less likely to be the subject of full and frank written briefing. This increases the risk that decisions will be made

on partial information, feebly presented. It means that there will be an incomplete record of the decision-making process. The *Freedom of Information Act 1999* should be amended to provide an explicit exemption from release for information that would compromise the ability of public servants to provide ministers with frank advice. Such changes would apply to only a very small proportion of government information.

Advice on significant matters must be written down. There will rarely be a single document. The development of policy (as any good public servant knows) is an iterative process of argument, counter-argument, negotiation and compromise. Records of deliberative discussions in all forms, including emails and texts, should be retained.

CONCLUSIONS | Providing robust advice

A.1 Public service advice is vital to good government and, to this end, Secretaries should be held accountable for the quality of advice provided to ministers by their departments.

A.2 Whilst acknowledging the value of frank and fearless oral discussions, the Australian Public Service Commissioner should issue a Direction that significant advice also be provided to ministers in writing. Ministers should insist on receiving frank written advice from the APS, noting that it is generally their decision whether to accept or reject all or part of the advice.

A.3 The Freedom of Information Act should be amended to ensure that advice and opinion provided to support the deliberative processes of government policy formulation remain confidential.

A.4 An APS-wide policy on record keeping should provide practical guidance about when and how records must be created, including that records of deliberative discussions in all forms, including digital, should be retained.

B SUPPORTING DECISION MAKING

Ministers operate in an environment of high pressure, fast pace, intense scrutiny and great complexity. They are responsible for making decisions—individually, and collectively as members of Cabinet—that have significant and far-reaching effects on individuals, businesses and communities. The importance of ministerial decision-making, and the circumstances under which it occurs, underscore the need to have well-functioning support systems in place for

Ian Hanger AM QC

“Ministers and their advisors must not, by subtle suggestion or otherwise, dictate what advice they receive.”³

ministers.

Cabinet processes support government decision-making. When functioning properly they provide an important safeguard against rushed, uninformed or poorly conceived decisions. Individual ministers have ownership of the proposals that they bring to Cabinet. They need strong support both from their staffers (on the one hand) and their public service departments (on the other). Good working relationships between departments and advisers depend on unambiguous rules of engagement. Clarity on the responsibilities of each is critical to ensuring that ministers can do their jobs well.

CONCLUSIONS | Supporting decision making

B.5 To acknowledge ministerial ownership of Cabinet proposals, submissions should open with a personal Ministerial Statement outlining the policy's purpose, expected outcomes and anticipated implementation risks.

B.6 In preparing Cabinet documents, Secretaries should ensure that the arguments presented reflect the viewpoint of their ministers. Assisted by government coordination processes, they also need to make certain that all relevant considerations for government are addressed in a clear and succinct fashion.

B.7 The Statement of Standards for Ministerial Staff should be tightened to provide explicit and unambiguous statements that advisers must not direct public servants without ministerial authorisation nor seek to make executive decisions.

B.8 Joint forums for ministerial advisers and APS senior executives should be conducted regularly to raise the efficacy of their working relationship and build mutual respect and understanding of the importance of their

C CREATING A POSITIVE RISK CULTURE

Governments take risks for the good of the people of Australia. Delivering new policy initiatives—changing taxation structures, reforming the welfare payments regime, building public infrastructure or delivering major new programs—is necessarily perilous. Governments strategically intervene where there are perceived to be market failures, and invest taxpayers' money to drive outcomes that they believe the private sector is unwilling or ill-equipped to deliver.

The political risks of such activities will inevitably be at the forefront of a minister's mind: perhaps less obvious are the financial, operational and strategic risks. Yet no matter how brilliant the policy, and however clever its political goals, poor design and ineffective delivery will harm governments. Ministers need an APS that can help them identify their appetite for strategic risk, identify its characteristics and mitigate the possibility of failures.

Ian Hanger AM QC

“The identification and management of risks under the HIP was seriously deficient.”⁴

On paper, the APS has significantly advanced its management of risk in recent years. The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and associated *Commonwealth Risk Management Policy* have established an outcomes-based framework to integrate risk oversight and management activities within the core business of government. It needs to be implemented with vigour. Progress has been too slow. In the two years since the Act was passed, its underlying ethos of ‘earned autonomy’ is a long way from being realised.

Most public service agencies still have a way to go in moving from reactive, defensive risk management to proactive, performance-focused risk engagement. Too often there remains a tendency to focus on compliance (have payments to aged care providers been properly acquitted?) rather than on performance (is the aged care system providing options that result in better health outcomes, improve the quality of life of senior citizens and deliver greater consumer choice?). There remains too much focus on looking backwards, relying on evaluation and audit to identify problems after the event. There is not enough looking forward to prevent mistakes occurring.

The management of risk, whether of particular major projects and programs or across the entire government, needs to be improved. New organisational structures and workplace systems can contribute to this goal, but the major challenge is to embed new approaches within a strong risk culture. APS agencies continue to struggle to instil a risk culture and behaviours across their workforce so that every employee fully appreciates that they have a role to play in identifying and managing areas of uncertainty.

CONCLUSIONS | Creating a positive risk culture

C.9 To inform and improve policy design, departments and major agencies should gauge their ministers' appetites for risk on individual programs and across their portfolio, and reach agreement on how implementation challenges will be identified, accepted and managed within agreed resources.

C.10 Departments and major agencies should appoint a Chief Risk Officer, at a senior executive level, who will be responsible for embedding a strong risk culture and behaviours across all levels of the organisation.

C.11 All major Cabinet proposals should be supported by a minister's endorsed Risk Management Plan, submitted to PM&C and the Department of Finance, and available for perusal by other Cabinet ministers.

C.12 In order that governments remain aware of the cumulative impact of their decisions, the Department of Finance should facilitate a bi-annual whole-of-government Risk Assessment for the Cabinet, analysing the system-wide impact of operational, financial, strategic, legislative and procurement risks faced by government.

D ENHANCING PROGRAM MANAGEMENT

Program and project management are too often seen as control activities based on templates and Gantt charts. They are actually creative processes. In practice, they require a collaborative approach to aligning multiple delivery tasks to achieve agreed objectives in the most effective way, within time and budget constraints. They require discipline in maintaining single point accountability while being open and flexible to the opportunities of networked governance structures. That calls for professional expertise. The APS needs to build a stronger cohort of skilled and experienced program and project managers rather than relying on the 'accidental' practitioners who are often selected when no-one with greater ability is available. Some experts already work in the APS, but their experience and qualifications are still not sufficiently recognised and their professional status and career development rarely receive the attention they deserve.

Public servants need to value program management skills. APS recruitment practices should better recognise the strategic relationships between design, delivery and evaluation in order to promote more diverse experience among senior executives. Increasing core capability, mobilising expertise and valuing leadership in program and project management will strengthen the APS as an effective, professional and resilient institution that—supported as necessary by outside help—has the capacity to deliver the agenda of the government of the day.

CONCLUSIONS | Enhancing program management

D.13 The Australian Public Service Commission should work with industry associations to develop standards of proficiency for public sector project and program managers, with agencies committing to support these staff through career development opportunities, continued education and participation in professional communities of practice.

D.14 For all projects and programs, there needs to be a clear understanding about who accepts end-to-end responsibility for managing implementation, wields delegated authority and where accountability resides.

D.15 The APS should establish a ‘tiger team’ capacity by which service-wide expertise can be harnessed to assist Senior Responsible Officers in the management of high risk, large-scale projects.

D.16 Whilst acknowledging that different departments have different workforce needs, Senior Executive Service selection criteria should place greater emphasis on program leadership when considering a candidate's demonstrated breadth of experience.

E OPENING UP THE APS

Private and public sector organisations around the world have come to recognise that diversity of perspectives in the workplace and the boardroom improves performance. Diversity increases critical analysis of information, results in better decision-

making and challenges ‘groupthink’. A mix of backgrounds, viewpoints and experience can, wielded together, generate more creative processes and better service. Productivity is enhanced.⁶

Ian Hanger AM QC

“Before Government intervenes in a market in which it has previously had almost no involvement, it needs first properly to understand the industry. . . [and] end users or deliverers.”⁵

The APS leads the private sector in the representation of women on boards and in senior executive roles.⁷ It also maintains a commitment to the employment of Indigenous Australians, people with disabilities and those from non-English speaking backgrounds.⁸ Whilst complacency must be resisted, this comparative advantage provides a positive foundation upon which to build. However, diversity cannot be created by demography alone. The challenge for the APS is that, for all its heterogeneity, it can remain inward-looking. It can become too comfortable with its own way of doing things. Diversity—in the sense of welcoming the views of the private and the community sectors—needs to be enhanced. The APS must open itself to a wider diversity of perspectives.

There is a need to build a more permeable public sector, providing greater opportunities for mobility within the APS, between jurisdictions and across sectors. People should be enabled to move in and out of the public service more easily. This will increase cross-sectoral collaboration in designing and delivering public policy, facilitate better partnerships and broaden the range of experiences that the public sector can call upon. For some people the APS will remain a lifetime career: for others, it will be a place to work temporarily on projects that capture their interest. The APS needs to be opened up.

CONCLUSIONS | Opening up the APS

E.17 Secretaries should support their staff to undertake career development opportunities outside the APS in order to gain beneficial experience.

E.18 Building on existing departmental initiatives, an Australian Public Service Scholarship should be established that provides financial support for ten APS leaders each year to undertake an important project in the business or community sector for up to 12 months.

E.19 A highly prestigious Public Sector Fellowship should be established to provide financial support each year for ten exceptional leaders from the business, community and academic sectors to contribute to significant initiatives in the APS for up to 12 months.

E.20 For high priority large-scale projects, departments should actively source specific talent from outside the APS on a temporary basis to provide a wide range of relevant skills, experience and entrepreneurial energy.

E.21 Program advisory groups should be established within departments that include representation drawn from outside the APS in order to capture a broader diversity of perspectives and knowledge.

E.22 A Prime Minister's Public Service Advisory Committee should be established that includes leaders from business and community organisations, to support the Australian Public Service Commissioner build a more open, collaborative and outward-looking public service.

F EMBRACING ADAPTIVE GOVERNMENT

The work of government is hard. Its challenges are wicked. Problems do not always have defined boundaries, solutions can (and should) be contested and authority is ambiguous. Political change can occur unexpectedly and at breakneck speed. Administrative change generally takes place in an almost imperceptible fashion but can be transformative in nature. These challenges are exacerbated by the rapidity and level of scrutiny that is now brought to bear by the 24-hour news cycle, the increasing influence of social media and the 'hyper-connectivity' of community networks enabled by the internet.⁹ Both politicians and public servants must grapple with unrealistic citizen expectations and low levels of public trust.¹⁰

The market is also becoming more competitive on a global scale. In response to the pace, complexity and connectedness of modern life, successful organisations are learning to function differently. Their operating environments are becoming increasingly unpredictable. Well-established companies suddenly find their business models undermined by emerging providers snapping at their heels. They discover that their customers are attracted by new services delivered in different ways. Companies rise to prominence quickly and amass great value rapidly—but many fail with equal speed. The organisations that thrive are flexible. They seize opportunities, learn rapidly and recognise that partners will be needed to deliver long-term goals. When they enter uncharted territory—or find themselves under threat from new forms of competition—they respond fast, start small, test new approaches, watch market responses, learn from doing, scale-up their activity or, if necessary, try again.

Ian Hanger AM QC

“Nothing ever becomes real, as Keats said, “’til it is experienced”.”¹¹

Most importantly, they are honest about failure. They recognise that mistakes happen, interrogate why they occurred and set in place remedial measures to ensure that they perform better next time. Failure and its lessons are an inevitable part of entrepreneurial life but are also central to maintaining the corporate competitiveness of well-established businesses. It is true as much for social enterprises as for companies. Competition for the philanthropic dollar is relentless.

The Australian Government can be informed by the organisational agility required for survival in the private and community sectors. It is true that the APS has a larger market than the vast majority of Australian companies and not-for-profit organisations and, for both better and worse, has been more protected from market pressures. That legislative and regulatory shelter is now under threat: citizens demand better services and greater choice and governments want more flexibility and higher productivity. Without abandoning the traditions of public service, new approaches need to be embraced that acknowledge that the delivery of government programs is increasingly contestable. These propositions can be usefully grouped under the conceptual framework of adaptive government.¹²

Adaptive government involves directing performance towards the achievement of outcomes in an increasingly competitive environment. To the extent that performance-based outcomes can be agreed and measured, the process allows contracted providers much greater flexibility in how they undertake delivery. This does not mean less oversight. Monitoring will still be required to assure not only that outcomes are being achieved, but that the process by which they are pursued has the integrity and accountability that public spending demands. Nevertheless, done properly, there will be less need for prescriptive red tape.

Adaptive government calls for greater organisational flexibility. It demands more willingness to experiment—starting small, testing what works and (in the worst case) failing quickly. It is premised upon facilitative leadership, in which collaborative partnerships are formed with others to deliver results. It requires much more agility than the traditional structures and workforce systems of public administration allow. It demands whole-hearted acceptance of the virtual world by which government can better engage with citizens.

Some of this is already happening in pockets of the APS. Such initiatives need to be embraced with greater enthusiasm. An adaptive approach has the potential to create momentous change in the effectiveness of public service. It can help to restore confidence that governments can meet the expectations of their citizens. 'One APS' needs to reimagine itself as an adaptive organisation—flexible, experimental, facilitative and agile.

CONCLUSIONS | Embracing adaptive government

F.23 The default position that new policies proceed straight to large-scale roll-out should be reversed and instead new policy proposals should include a trial or demonstration stage, allowing new approaches to be developed fast and evaluated early.

F.24 Staged decision-making for large projects should incorporate the allocation of seed funding to agencies to develop a business case and proof-of-concept, which can be tested before the project moves to a further stage.

F.25 The Australian Government should fund an innovation competition to encourage experimental, innovative community and business proposals for improving the delivery of programs and services.

F.26 In order to improve contestability and citizen choice, departments should facilitate the ability of contracted providers to take their own approaches to the delivery of agreed performance-based outcomes.

F.27 As part of continuing effort to reduce red tape, greater efforts need to be made to engage with communities and businesses to understand how contractual conditions and administrative guidelines can be less prescriptive, making it easier to work with government.

F.28 The APS should promote new forms of civil participation, including digital and deliberative democracy techniques, in order to enhance consumer-directed care, improve customer service, encourage greater citizen engagement and inform the public economy.

Reflections on Failure

No matter how objective an inquiry intends to be, it necessarily reflects the distinctive perspective that the reviewer brings to the task. This report is no exception. I have been drawn to the task because I am genuinely interested in how government processes for implementing large public programs can be improved. The question is important. I am well aware that the review has been prompted by the manifold failures identified by the Royal Commission into the Home Insulation Program (HIP), undertaken by Ian Hanger AM QC, as well as by the array of problems associated with the design and delivery of the National Broadband Network (NBN). But, as my terms of reference suggest, similar issues have been evident in other national projects. Of course, the challenges are not confined to Australia. *The Blunders of Our Governments*, published in 2013, catalogues three decades of big, failed projects in the United Kingdom.¹⁴

Peter Shergold AC

“Leadership begins with finding the courage to say, ‘I accept personal responsibility for contributing to the failure to which I was a party’. That recognition can steer the resolve to make changes, try again and do better. Acknowledging errors publically is a form of self-improvement, not self-abnegation. Failure, and how we respond to it, is where leadership is born.” (2015)¹³

Peter Shergold was the Secretary of the Department of the Prime Minister and Cabinet from 2002 to 2007

With the help and assistance of a dedicated Secretariat team, I have sought to reflect critically on the lessons that need to be learned by public servants about how to execute such programs more effectively in the future. I have arrived at conclusions, informed by discussions that have been held with present and former members of the APS, as well as by suggestions made by those in the business and community sectors who have experience of working closely with governments. I am particularly grateful to the peer reviewers who provided their insightful comments on a draft of this report. Many of my sentiments have been expressed already by politicians and public servants (as is evident from the boxed quotations). Indeed a number of my proposals are already in train. They need to be pursued in a systematic way with greater vigour.

It is important to emphasise, however, that the report reflects my own conclusions. It has been drafted from the viewpoint of someone who has been a senior public servant, who remains deeply engaged with matters of public policy and who believes profoundly that the quality of public administration is of great consequence to the manner in which Australia is governed. It would be foolish not to admit up-front that the judgements at which I arrive have been significantly influenced by my own experience. They are one perspective, but I hope a useful one.

I had the singular good fortune to be a senior public servant in the Australian government for two decades. I enjoyed extraordinary opportunities to contribute, in large and small ways, to matters of great public importance. Of course, even when I exerted positional authority, I was

on occasion frustrated in my ambitions by the lumbering scale of administrative hierarchy. The APS, I came to realise, is a brilliant creation, delivering a huge number of transactions every day in an efficient and ethical manner. Yet it remains shaped by its origins as an industrial scale, command-and-control organisation. A century ago it mostly delivered letters: today, mostly welfare payments. Officialdom still weighs heavily on it. Bureaucratic processes, just as much as drawn-out political negotiation, can slow the way in which things are done. Innovation can be stymied. Yet I could always discern the significant purpose of the job, enjoy the chance to make a difference and recognise the need to exercise influence with integrity.

Such attitudes are not limited to the senior ranks of the APS. The ethos of public service runs deep. Indeed, I have been frequently inspired by those more junior public servants, often outside Canberra, who have greater direct contact with citizens and for that very reason find their jobs rewarding and fulfilling. They often display considerable ingenuity in seeking creative ways to improve the service that they offer. Do not imagine that they are paper-pushers, dedicated to circumlocution. Rather, think of frontline workers as talent spotters for new ideas and discerning critics of existing approaches. To a very large extent, they are the face, or voice, of public service to the 'customers' of government.

Public service was not my lifetime career. I had worked for a long period as a university historian before I entered the APS. Since leaving the Service, I have spent eight years developing a portfolio career of non-executive positions in private, public, community and academic governance. But on reflection I realise that public service was my vocation. I slowly came to discern its challenges. To take a silent vow of non-partisanship in order to offer impartial advice and to serve successive governments with equal commitment is not a decision to be taken lightly. It involves sacrifices. For most public servants in senior positions, it can be a tough gig. There is a personal cost that goes with wielding influence from the inside.

Yet, too rarely recognised in educational textbooks, an apolitical public administration is fundamental to the good health of Westminster-style democracy in Australia. First-year university students of political science soon learn that the exercise of executive authority by the government of the day is constrained by the need to wield it through the legislative authority of the Parliament, and that its decisions are subject to the scrutiny of an independent judiciary with its own powers. They are introduced to the complex and ambiguous relationship of Commonwealth, State and Territory jurisdictions operating in a Federal structure, founded on a written Constitution.

Generally, much less attention is devoted to the role of professional public administration in a participatory democracy, and the manner in which it influences power. Perhaps that is because much of what senior public servants do is necessarily hidden from view. The role of appointed departmental Secretaries, their executive teams (and increasingly their middle

managers) is to provide advice to the elected ministers they serve. On occasion, to employ a well-worn cliché, that needs to be done in a frank and fearless fashion.

Yet—and here's the rub—however forceful and robust the advice that is conveyed to ministers or their political advisers in private, it is vital that once government casts its judgement, its policies should be implemented with energy and dedication. Cabinet decisions need to be given effect, administratively or through legislation, by public servants. No matter whether the policy proposal has emanated from the APS or the minister's office; no matter whether public service advice has been accepted, adopted, adapted or ignored; no matter whether public servants think that the outcome is brilliant or foolish (or even, perhaps, courageous)—their immediate task is to execute decisions on time, on budget and to the government's expectations.

Equally important, a political Opposition or an enquiring media should not be able to discern from words or actions a senior public servant's views on the wisdom of the policy. A government should be judged by the public for the decisions that it makes, rather than for the decisions it might have made had it been more persuaded by the informed entreaties of its administrators. In short, confidentiality lies at the heart of the democratic processes within which policy is deliberated upon. Without it, government decision making and public policy outcomes will be the poorer—outcomes like the HIP will be more likely.

In contrast, the manner in which ministers and public servants administer policy is appropriately subject to intense scrutiny. At the Commonwealth level, they face rigorous scrutiny before a range of Parliamentary bodies, not least at regular hearings of the Senate Estimates Committees. An independent Auditor-General routinely evaluates departmental performance in delivering programs or overseeing projects and, on occasion, the assessments have been scathing. Individual citizens, on occasion with the support of the Commonwealth Ombudsman, and through the use of Freedom of Information (FOI) laws, are able to gain access to the basis of decisions that directly affect them. The Ombudsman will investigate their complaints to see if those decisions were wrong, unjust, discriminatory or just plain unfair. Citizens can also challenge the decisions to which they have been subject before the Administrative Appeals Tribunal (AAT), an institution which promises to provide prompt review with as little formality and technicality as possible. They can seek redress through the courts.

This is as it should be. Public servants exert considerable power over the public that they serve, and it is important that they are held accountable to the Australian community for their actions, within the framework of ministerial responsibility. Mistakes can be costly, and not just because taxpayers' funds may be wasted, misapplied or used profligately. Poor administration can, on occasion, deprive citizens wrongly of their liberties, constrain the application of their rights, fail to inform them of their responsibilities or even, tragically, cost them their lives. Public servants need to answer for their actions. They remain accountable

even when, as now, so many government services are delivered under contract by outsourced providers.

Policy sits at the interstice between what is confidential (the development of policy) and what is public (its delivery). For that reason, when things go wrong, as they did so profoundly in the HIP, it is often difficult to attribute responsibility. I have an instinctive sympathy for public servants who find themselves subject to criticism and perhaps disciplinary action for their failures. That is not just because when big but unintentional mistakes occur, one looks at one's own career and thinks quietly, "there, but for the grace of God, go I". It is also because memories of what exactly happened are notoriously unreliable, especially when the written record of decision-making is sketchy. In an environment in which decision-making is too often opaque and responsibility diffuse, it can be difficult to attribute blame. Indeed, the attempt can create a sense of injustice that inhibits a proper understanding of the array of reasons why events went so terribly wrong. Public servants are often aggrieved by accounts of their avowed incompetence: often they feel that they have worked around the clock on a large project, had their good advice ignored, done their best to implement the government's decisions and then borne the blame when things went awry.

The hearings held by the Royal Commissioner show clear evidence of this tendency. In general, when projects turn out well, one's mind will naturally tend to ascribe a greater significance to one's own role; and when decisions go badly, it can be comforting to think that one's actions were of relatively minor consequence in a system-wide organisational failure.

Yet it is crucial that organisations and individuals are able to learn from their mistakes. Thankfully the evidence that is available from enquiries into the design and delivery of the HIP, the roll-out of the NBN, the construction of school buildings as part of the Building the Education Revolution (BER) policy—and from a range of other major government programs that have been marked by managerial shortcomings—suggests that there are a number of common factors that reduce the chances of success. There are also measures that can enhance the prospect of positive outcomes. Understanding both threats and opportunities can help to increase the likelihood of effective implementation of major projects in the future.

Over the past few months I have read, discussed and thought about these matters, focusing on the delivery of large programs and the development of the policies that underpinned them. I have come to the conclusion that there are ten key lessons that emerge and that can be learned. These are the matters that this review seeks to address.

First, policy is only as good as the manner in which it is implemented. The development of a policy and its delivery are inextricably linked. Implementation should be integral to policy design. A policy cannot be elegant if its execution is poorly communicated, ineptly administered or inadequately evaluated. The proof of the pudding is in the eating.

Second, policy advice can only be frank and fearless if it is supported by written argument. Good government is founded on good policy, and good policy depends on forthright advice. Ministers look to their public servants (although not to them alone) to provide or challenge ideas. Discussion of proposals should be robust. Yet oral advice, however strongly it is conveyed, can too easily be ignored or misinterpreted. Worse, it becomes possible to argue about whether it was actually given or received.

Third, deliberations, oral and in writing, need to be protected. Ministers (and their advisers) and Secretaries (and their senior executives) need to have complete trust that public service advice will remain confidential. If private discussions become public, mutual respect will be eroded. If confidentiality is not assured, public servants will be tempted to temper their counsel and ministers will prefer to receive advice only orally. That's a bad outcome for governance. Anodyne advice undermines effective decision-making. Oral advice leaves no trace of the reasoning behind the decisions that were made.

Fourth, deliberative documents need to be preserved, whether written on paper or delivered by digital means. Nothing symbolises significance more than handing a minister a sheet of signed advice. Increasingly, though, policy is developed in real time by email and text message communication between departments and ministers' offices. These important electronic documents need to be managed as confidential records. They are the files of the future. They are our protection against 'digital amnesia'.

Fifth, it is up to ministers, not officials, to make policy decisions. The important role of senior public servants is to ensure that Cabinet ministers make their decisions with eyes wide open. Advice should seek to identify the risks, envisage unintended consequences, indicate threats to successful implementation and proffer alternative options. Public servants should not seek to impede a government's ambitions but to help it find the best way to give them effect, ensuring that ministers are cognisant of the full ramifications of their decisions and the impact that they will have on business and community interests and on the general public.

Sixth, the effective management of risk is just as important in the public sector as in the private—perhaps more so. Governments need to be apprised of the strategic, financial, operational, regulatory and political risks to the implementation of major projects. This is particularly the case when successful implementation depends on the co-operation of other tiers of government and/or delivery by third-party agents. Public servants need to indicate how risks can be mitigated or accepted, not avoided. Problems often emerge a long way from Canberra. Risk culture and behaviours need to be embedded across the whole department, from the departmental Secretary to the most junior regional officer. Prevention is the first line of defence.

Seventh, as the public service fully commits itself to measuring results by outcomes, program management needs to be accorded far greater professional status. The *Public Service Act 1999* places equal emphasis on members of the Senior Executive Services

(SES) exhibiting the capacity to provide policy advice or deliver programs. That is not reflected in cultural attitudes or behaviours. Too often in the APS, policy advice is accorded significantly greater status than program delivery. In truth, conceptual, analytical and strategic skills (the foundation of SES selection) are just as important to program management as they are to policy design. Project and program managers need to be recognised as a community of practice in the public service, with attributes as important as those who possess legal, accounting, medical or veterinary skills. Capability needs to be progressively enhanced across the APS in a systematic fashion. In the past, public servants tended to administer by the prescription of process. Management directed its attention to the distribution of allocated inputs. Today the focus is far more heavily on performance-based outcomes. Results matter. New professional skills are required.

Eighth, good governance increasingly depends on collaboration across sectors. The private and community sectors are now central to the construction of public infrastructure and delivery of public programs. They are commissioned to deliver government services. The public market is becoming contestable, offering citizens greater choice. Unfortunately, too often the relationship with providers is conceived merely in contractual terms. Their expertise is not given full expression. Public servants need to facilitate the engagement of business leaders, not-for-profit CEOs and senior academics in the design of major projects. They should be seen as partners rather than as stakeholders. Their experience should be tapped. That will help to ensure that there is more evidence-based policy and less policy-based evidence. The key to transforming the delivery of major projects is to focus less on contract compliance and more on collaborative performance.

Ninth, the APS needs to be further opened up. More opportunities should be found for those who work in business and community organisations to work in the public arena. This is not to suggest that public servants are second class. An increasingly graduate workforce is probably more qualified and capable than ever before. However, there is considerable benefit in increasing the diversity of perspectives brought to public administration. Conversely, public servants should be actively encouraged to undertake periods of relevant work in companies, social enterprises or universities. Greater experience will enhance their performance when they return to the APS. There is significant advantage in enabling people to stand in the shoes of others, appreciating the different constraints under which they operate, and learning new approaches. Such exchanges will not undermine the public sector ethos but reinvigorate it.

Tenth, an adaptive government can respond rapidly to changing circumstances without taking unnecessary (and unforeseen) risks. On occasion, governments have an appropriate desire to act quickly. Public servants are often seen as an impediment. They can be perceived as cautious, guarded, even unimaginative. They can seem risk-averse. Yet their circumspection is based on the knowledge that the rollout of major national programs is fraught with danger. With wicked, complex and deep-seated public problems, it is uncertain exactly what policies will work, or how they should be delivered in the most effective way.

There are benefits to experimentation: often it is more sensible to test out ideas on a small scale rather than across the whole nation. More attention should be given to using trial or demonstration sites to begin implementation expeditiously, trialling different delivery options and learning by doing. Success can be demonstrated early. Failure can be addressed fast.

These views frame the report that follows. It endeavours to do justice to the perspicacious insights of the Royal Commissioner, Mr Ian Hanger AM QC, and others who have reviewed the mistakes made by those who have designed and executed major government programs. I have sought to listen empathically to the responses of public servants to these swingeing criticisms. I have tried not to cast judgement on individuals. I admire and respect the APS. While I have not shied away from frankness in acknowledging its past failures, I hope that the conclusions at which I have arrived will help the process of improving the manner in which the APS wields its significant power in the future.

Several of my conclusions reflect a need for the APS to critically examine and reshape how it does its business. In places I have recommended new structures, not for their own sake but as means to an end. New tools, administrative structures and bureaucratic positions can too easily become red tape. Anything that becomes routinised in government process can invoke a compliance mindset. Some of my suggestions will sit awkwardly with established culture and practices. They point to the need for changes that some will find uncomfortable, but which need to be pursued. These are not superficial changes. They will be demanding and even at times troubling. The goal is to build a more mature culture, a more constructive environment and a more sophisticated public sector approach. The end result, while it will take time, will be worth it.

This report, whilst transmitted to the Australian Government, is intended to open up 'strategic conversations' across public services. I hope that its arguments will inform public discourse, and perhaps even stimulate heated debate. If so, my review will in large measure have achieved its objectives.

Lessons from the Past

Why do we need to learn from the failure of the HIP

The HIP was a major project, the design and delivery of which involved massive failures and led to tragedy. The large-scale program was beset by far-reaching errors. Mistakes were manifold: irreconcilable policy objectives, flawed program design, rushed implementation and inadequate monitoring. Mediocre record-keeping makes it difficult to tell the full story of which public servants provided what advice to ministers when, and to what effect. Responsibility for decision-making was diffuse and opaque. Accountability for consequences was unclear. Yet it is apparent that the advice provided by public servants to ministers was, in many instances, poorly given, poorly received and poorly communicated. Consultation across government, between jurisdictions and with industry bodies was all but absent. Citizens were not consulted on what they wanted and installers were not asked how it would be best to deliver those aspirations.

The development and delivery of the HIP was not just marked by a plethora of mistakes: the consequences were stark. Four young workers lost their lives, houses caught fire and long-standing businesses were destroyed.¹⁵ It is important that the lessons of the tragedy are learned. It is vital that when governments decide to instigate large new initiatives in the future, that the process of execution has been improved. I hope that ministers, advisers and public administrators will be able to say that “we will never have another HIP: we have learned the lessons from what went wrong”.

The Royal Commission into the HIP was established on 12 December 2013. Mr Ian Hanger AM QC was appointed as the Royal Commissioner and delivered his report on 29 August 2014. There had already been a number of other reports into the HIP, notably by Dr Allan Hawke AC in his 2010 *Review of the Administration of the Home Insulation Program* and by the Australian National Audit Office (ANAO) in its *Performance Audit Report No. 12 (2010—11)*. The program, and others explored in this review, provides a catalogue of lessons for governments here and around the world. They allow us to learn from failure.

The HIP was designed to stimulate the economy

In late 2008, Australia was facing a severe economic downturn. The Global Financial Crisis (GFC) threatened to end an era of prosperity. In response, the Australian Government deployed a range of measures to stimulate the economy.

On 3 February 2009, the Prime Minister, the Hon Kevin Rudd MP, announced a \$42 billion Nation Building and Jobs Plan.¹⁶ Included in this plan was an Energy Efficient Homes Package, of which the Homeowners Insulation Program (later renamed the Home Insulation Program or HIP) was a major component. Around \$2.7 billion was allocated for the installation of insulation into the ceilings of some 2.7 million existing Australian houses over a period of two and a half years.¹⁷ The HIP was extremely ambitious in its scale. Prior to the announcement there were only about 200 businesses installing insulation into just under

70,000 homes annually.¹⁸ The HIP aimed to achieve a fifteen-fold increase in the number of installations carried out each year.¹⁹

The objectives of the HIP were to create employment for thousands of low-skilled workers in the building industries, whilst delivering improvements to the energy efficiency of housing, and contributing to a reduction in Australia's carbon emissions.²⁰ These competing objectives made the execution of the HIP difficult. Hanger emphasised the tension between the economic stimulus objective of the policy, which required the need for expedited progress, and its environmental objectives, which in normal circumstances would have been far more carefully pursued.

The HIP was developed quickly and without the usual safeguards of the Cabinet process

Things went wrong from the very start. The pre-announcement design of the HIP was rushed, with two officials required to develop a policy proposal over the Australia Day long weekend in January 2009. They were given express instructions “... not to contact industry and not to speak with colleagues”.²¹ This set the tone of achieving speed by stealth.

Many government decisions on the HIP were not subjected to the usual procedural safeguards provided by Cabinet process. Indeed much of the initial program development was overseen only by a sub-set of four ministers which, extraordinarily, did not include the minister responsible for the delivery department, the Department of Environment, Heritage, Water and the Arts (DEWHA).²²

Implementation design was flawed and was done without consultation

The Prime Minister announced that the HIP would commence on 1 July 2009. That left just five months from its announcement to develop and begin to implement the program. In keeping with an ethos of supporting construction projects that were ‘shovel-ready’, the aim was to get public

funds out of the door and pink batts into roofs as fast as possible. The start date was perceived as non-negotiable.²³ Political imperatives dominated.

According to many witnesses to the Royal Commission, this led to “crucial and material compromises to the proper design and implementation of the HIP”.²⁴ Concessions were made in the name of expediency and had disastrous consequences: they included relaxing training requirements for workers, and assigning the skill competencies to supervisors rather than those performing the installation. This “unnecessarily exposed workers, particularly inexperienced ones, to an unacceptably high risk of injury or death”.²⁵ These late changes to the delivery model were imposed on DEWHA by the (now defunct) Office of the Coordinator General (OCG) in the Department of the Prime Minister and Cabinet (PM&C). Under political pressure, the OCG seems to have been driven by a ‘can-do at any cost’ mentality. The Royal Commission concluded that, “if given an extended timeframe [DEWHA] could have delivered the regional rollout program on which it was working”.²⁶ However, no evidence was found that a formal written request for a time extension was ever sought by any public servant.²⁷

It was not just that judgement was poor. Hanger found that DEWHA was ill-equipped to deliver such a large and complex program, even if it had not been rushed to deliver at scale from the outset.²⁸ DEWHA's development and implementation of HIP coincided with a significant expansion of the department's responsibilities. It had little experience of delivering programs. It was unprepared for the task. Post-implementation reviews of the HIP identified problems with the department's governance structures, program design capability, corporate administration, risk management behaviours, audit and compliance mechanisms, and effective monitoring.²⁹ When the Hon Greg Combet AM became Minister for Climate Change and Energy Efficiency in September 2010, he found that the APS had been ill-equipped to run the HIP program: "As a consequence, given the lack of systems—administrative, IT and financial—running that from Canberra was easily penetrated by fraudsters."³⁰ Unsurprisingly, given the mood at the centre of government, DEWHA did not consult widely. There was insufficient consideration given as to how government intervention would impact a relatively small and largely unregulated industry. The Commonwealth abrogated responsibility for industry compliance and licencing activities to State and Territory governments but without listening to their frontline experience. Officials failed to talk to local government. Warnings from international experience were not heeded.³¹ In-house expertise was not developed and external advisers were inadequately briefed on their responsibilities.³² Time was not made available to organise pilots to test the suitability of the program design.³³

Accountability was blurred and risk poorly understood

Confusion reigned. Roles within the Project Control Group (PCG) were not clearly articulated or understood. A deference to 'team-work' diffused responsibility for decision-making.³⁴ Critical decisions, such as lowering training and competency requirements, were taken by the PCG in a committee environment which discouraged members from being active participants in the deliberative process. The outcomes failed adequately to address risks to the safety of installers.³⁵ The perceived problems with the change to the delivery model by the OCG, which significantly increased implementation risks, were not communicated to senior officials and did not get updated in the risk register.³⁶ Similarly, while safety concerns were raised early in the HIP's implementation by industry representatives, they were not added to the register, and did not inform the risk management strategy.³⁷ Warnings appear to have been ignored. Even in the late stages of the HIP, when the Australian Government had received specific advice about the risk of injury to installers and had the information necessary to make a decision to ban unsafe products and procedures, it was far too slow to act.³⁸

Of course, the responsibility of government for the proper design and implementation of the program in no way obviates the responsibility that businesses also had in implementing safe work practices for their staff. However, as program designers and contract managers, public servants should have made far more effort to manage a greater proportion of the risk of failure, particularly for project implementation and monitoring. Government, too, must take responsibility. All Cabinet ministers should have been involved in discussions of such a major project, including managing the risks. Ministerial advisers should have alerted their

ministers to the changes. Senior public servants, too, should have exhibited greater fortitude in advising ministers and insisted on having their advice recorded, and (in the event that they could still not persuade government to agree to a more realistic timeframe), should have collaborated with State, Territory, local governments and industry associations to identify and mitigate the program's major risks.

As evidence accumulated on emerging problems, the HIP was formally suspended on 19 February 2010. Dr Allan Hawke AC was commissioned to undertake a review of the HIP. He recommended against its continuation. On this basis the Government formally terminated the program.

The consequences of failure were great

The fallout from the HIP was considerable. The consequences were tragic. The failure of the Australian Government to identify and manage the risk of injury and death to installers until very late in the HIP was a major cause of four young men dying whilst they worked on the program: Matthew Fuller, Rueben Barnes, Marcus Wilson and Mitchell Sweeney.³⁹ This is a consequence that their families will live with forever. Some workers and home owners were injured and have ongoing health issues.⁴⁰ It contributed also to house fires attributable to poorly installed (and unchecked) home insulation.⁴¹ Previously viable businesses became insolvent and many business owners lost their livelihoods.⁴² Large sums of public money were wasted on delivering a major project ineffectively. The government also found itself having to commission, assist and respond to eight inquiries into the program.⁴³

There was also a large financial impact on the Australian taxpayer for remediation. On termination of the HIP, two safety programs were established.⁴⁴ These programs were implemented at a cost in excess of \$100 million. In addition, two industry assistance schemes were established.⁴⁵ The total cost of remediation was well over \$400 million.⁴⁶

In late 2014, the Coalition Government instigated further measures in response to the Royal Commission.⁴⁷ These included making payments to the families of the deceased installers; providing financial compensation to pre-existing insulation businesses adversely affected by the HIP;⁴⁸ improving safety for workers in roof spaces; ensuring future Commonwealth programs would minimise work health and safety risks; and addressing APS Code of Conduct matters relating to the of the roles and responsibilities of individual public servants during HIP.

My review of government processes for implementing large programs and projects is part of the suite of actions that have been set in train. The Minister for the Environment, the Hon Greg Hunt MP, has asked for an independent assessment of the failures identified in the Royal Commission (as well as the Independent Audit of the NBN Public Policy Processes). The review is to identify what lessons can be learned both by ministers and public servants and to provide practical recommendations to enhance the capacity of the Australian Government to deliver large programs and projects. The starting point is clear: HIP was an unmitigated disaster that need never have occurred. The capacity of the

Australian Government needs to be enhanced. Ministers, their advisers and public servants should all heed the lessons.

What went wrong with the National Broadband Network

The review is also to consider the design and delivery of another large public program, the NBN. The idea of the NBN was taken to the 2007 federal election by the Labor Opposition, with the ambition of providing all Australians with fast broadband to their homes and businesses.⁴⁹ In government, Labor sought to implement its mandate. It proved difficult. The NBN implementation design had to be changed quickly and substantially after a tender process conducted in April 2008 did not result in any viable proposals.⁵⁰ A revised approach was developed in January 2009, with the establishment of a new Government Business Enterprise (known as NBN Co). At that stage, the legislative and regulatory framework of the program was still undefined.⁵¹

The 2014 Independent Audit of the NBN Public Policy Process, conducted by Mr Bill Scales AO, identified significant failures. Many echo and reinforce the problems identified with the HIP. They relate to 'closed-door' policy design. Scales emphasised that the process for the development of the revised design of the NBN did not involve any consultation with industry. The proposal did not include any cost benefit analysis or business case.⁵² There was poor understanding of risk and its management was sub-standard. Scales saw the development of the NBN as a program that never clearly defined the problem that it was trying to solve: instead, it assumed that the answer was already at hand.⁵³

Common to the development of both the HIP and NBN was a poor comprehension of the operating environment for the programs. There existed little or no understanding of industry dynamics and regulatory frameworks, nor of the manner in which government intervention would affect businesses.⁵⁴ Scales found that NBN Co was not fit for purpose. In comparison to established telecommunications companies, it did not have the capacity to deliver outcomes in the timeframe determined by the government.⁵⁵ Furthermore, the APS was unable to influence the discussion of risks with the government. Scales suggested that the issues which he identified were characteristic of a deeper problem within the public service.⁵⁶

What went wrong with Building the Education Revolution

The HIP and NBN are not the only large government projects that have been marked by poor design and/or inadequate implementation. They are simply the two most recent egregious examples. The BER was another part of the then Government's economic stimulus package.

Administered by the Department of Education, Employment and Workplace Relations (DEEWR), most of the \$16.2 billion program was designed to provide schools with new and refurbished school halls, libraries and classrooms.⁵⁷

Following fierce public controversy about whether the program was delivering quality outcomes, the Government established a BER Implementation Taskforce in April 2010. The Taskforce, headed by Mr Brad Orgill, presented its final report in July 2011. Whilst the report found that the projects were successfully delivered, it also identified significant variations in

infrastructure cost, with public schools in Queensland, New South Wales and Victoria paying an average of 25% more than Catholic schools and 55% more than independent schools.⁵⁸ Mr Terry Moran AC, who was Secretary of PM&C at the time, was of the view that the BER should have been undertaken in tranches to create flexibility and, if necessary, halt the process. In the absence of staged implementation the program, according to the political commentator Paul Kelly, “was inefficient, failed to deliver value for money, and its waste became a political issue... quotes were inflated and the work was often sub-standard.”⁵⁹ A 2014 academic study examined whether the BER was “another case of government failure”. It concluded that it represented a case study of how governments should *not* pursue large-scale expenditure programs.⁶⁰ The BER, it was argued, failed to deliver value-for-money.

Many other programs here and overseas have failed

Beyond the HIP, NBN and BER failures, there are lessons to be learned from many other major projects, both in Australia and overseas. Many involve the introduction of new information technology. The implementation of the former Australian Customs Service's Cargo Management Re-engineering Strategy was woeful. According to the ANAO, “the management framework that Customs had in place to support the project lacked many of the basic fundamentals necessary to successfully implement a large ICT project.”⁶² From 1999 to 2006, costs blew out from \$30m to \$205m and recurrent failures resulted in severe adverse business consequences for importing industries. Because of the incompatibility of importers' legacy software with new cargo management systems, coordinating cargo became extraordinarily difficult.⁶³ Similarly, the disastrous opening of London Heathrow's Terminal 5 in 2008 saw thousands of bags caught up within the airport's handling systems. The backlog was attributed to a lack of thorough and realistic operational planning for the launch and inadequate staff training in new ICT systems.⁶⁴ Over-optimism and inadequate appreciation of the complexities inherent in implementing ICT systems seem to be recurring causes of project failure.⁶⁵ In fact, only 6 per cent of large software projects from an international sample between 2003 and 2012 were on time, within budget, and had satisfactory implementation.⁶⁶

But let's remember what's going right

Reading reviews of failure can be a dispiriting exercise. It can also create a distorted perception of reality. Reform of the implementation of large programs and projects should not just be based on a litany of what has gone wrong. Many things go right and, for that very reason, go unnoticed. It is important to acknowledge what has worked in Australia and around the world and looked for what the common drivers of success seem to be. These are reflected in my conclusions.

Jane Halton AO PSM

“I think we have a fantastic quality of public servant in Australia and I do think our history of innovation and our history of staying at the cutting edge is an important legacy that we need to honour, so the opportunity to look at how we do our business and to improve it is a terrific opportunity and I think everyone should embrace that.” (November 2014)⁶¹

Jane Halton is the Secretary of the Department of Finance

It is important to emphasise that the APS has not been waiting passively for this report, steeling itself for its recommendations. Already, significant new approaches are in train to improve the quality of public administration. Since the HIP, the Department of the Environment (DEWHA's current successor) has made deliberate improvements to its program management capability, particularly in gauging pressures and risks in early program design, monitoring the challenges that emerge during implementation, and setting an expectation of high-level management attention and strong collaboration with external stakeholders.⁶⁷ There is widespread recognition of the need for continued reform across the APS. In some areas things are moving too slowly: in many instances, public servants themselves would like to progress faster. I hope that I have been able to capture the underlying frustration of many public servants: that it is difficult to make the key changes which they believe can improve the influence of the innovative ideas they have; strengthen the advice that they provide; enable them to be more responsive; and enhance their capacity to deliver and evaluate major projects that the government instigates. Progress would be enhanced if the Government was explicitly to authorise and encourage the change process. The six reform directions identified in this review seek to provide a coherent framework for a structured conversation on the failures that have occurred, the lessons that are being learned and how they can be most adequately pursued.

A | Providing Robust Advice

PROBLEMS EXPOSED

The program design and implementation of the HIP and the NBN were compromised by the APS failing to provide robust advice. Public servants did not draw sufficiently on external views and expertise,⁶⁸ and the partial evidence they did muster was unable to exert influence through its advice to ministers.⁶⁹ There was a failure to provide sufficiently frank and forthright advice to ministers on important elements of policy design and risk.⁷⁰ There was a significant gap between the inadequate levels of candour displayed in written advice and that reportedly conveyed in oral briefings. Public servants failed to keep detailed records of key decisions and how they were arrived at, nor did they put into writing concerns regarding design features of the program, despite testimony that this was raised orally with ministers.⁷¹ The APS, Hanger concluded, “ought to reinvigorate its willingness to provide, in writing, advice that is as frank and robust as the advice it is willing to give verbally”.⁷²

Ministers themselves frequently bemoan the quality of the advice that they receive. There have been recurrent complaints over recent years from ministers about their departments’ apparent lack of innovative ideas and inadequate standard of advice. This may not be the experience or perspective of most ministers, but it is a complaint that I have frequently heard. “Don’t public servants have interesting ideas?”, I am asked, usually accompanied by, “Why do they always tell me that things can’t be done?”. The answer, I hope, is that public servants do like to contribute to good public policy but need to be encouraged to present their views forthrightly on a confidential basis.

Providing advice to ministers has long ceased to be the exclusive domain of the public service. Ministers have access to a wider range of sources than ever before, including their party colleagues, political advisers, industry lobbyists, community advocates, policy think tanks and academia. They also hear from their constituents and individual citizens. This is a good thing: being able to draw on more information and multiple perspectives supports better decision-making. Public servants need to have the capacity to argue their case against alternative views.

Even in this contested environment, the APS remains in a position of strategic importance at the centre of government. Public servants are privy to ministerial decisions in a way that others are not. While outsiders may engage at different points in the policy process, the APS’s involvement spans every stage—from bouncing around ideas, setting agendas, formulating policy and undertaking design to delivering, monitoring and evaluating a program’s implementation. Continuous proximity to political power contributes to the unique role of public servants. They are privy to many (but not all) of the important conversations. But these advantages do not guarantee influence or relevance. For this, public servants—individually and collectively—must establish and maintain a reputation for reliably delivering the best-argued and most persuasive advice.

PROBLEMS ADDRESSED

Good advice should be responsive and timely

Good advice should be responsive and timely. Responsiveness requires public servants to be sensitive to government priorities and alert to the intent and direction of policies. Advice and options should be based on an understanding of ministers' expectations, but also identify their unintended consequences and what alternative approaches might help a minister to deliver their goals more effectively. Responsive advice needs to be politically astute. It should recognise the choices and constraints ministers face and include options to address them. It is also proactive, vigilant for opportunities and anticipating problems. Good advice reflects an understanding that policy development often takes a long and circuitous path, progressively adapting to the unexpected twists and turns of political debate, discussion and circumstance. Over-responsiveness—where public servants hold back on giving critical advice in a display of undue deference to their ministers' views—can be fatal to good policy outcomes. When a minister says “jump”, the response should not be “how high?”. Nor should it be “no”. A better question is “in what direction and for what purpose?” Advice that is contrary to ministers' expectations is justified where it is based on a solid grasp of the government's objectives and aimed at supporting their achievement in the best way possible. It must reflect departmental knowledge, obtained by thorough analysis and consultation, of the likely benefit of alternative approaches. It should be informed by a clear assessment of what can go wrong, because there is a good chance that it will.

Ministers frequently lament that advice from the public service is too slow. I have, on occasion, been the recipient of such remarks. The APS needs to prevent advice getting weighed down by process. Hierarchical processes can play an important role in ensuring quality control and ethical standards. On the other hand, taken too far, the burden of bureaucratic process can create unnecessary delay and crush innovative ideas. Papers sometimes go through a long succession of clearances by progressively more senior public servants before they are deemed ready for submission to a minister's office. The time lost is generally greater than the quality added. At the same time, it needs to be recognised that the preparation of good advice on complex issues can take time. This is more likely to be the case when governments are forging new policy directions, or are taking on functions with which they have had little experience. Uncharted waters take longer to navigate safely. In such circumstances, establishing demonstration projects may afford useful opportunities to learn by doing, rather than taking the risk of rolling out an untried program nationally.

Good advice should be factually accurate, supported by evidence and shaped by experience

Advice needs to be analytically rigorous, carefully balanced and unbiased in its assessment of evidence and options. This does not mean that it cannot be succinct. Conclusions should not be based upon—or worse, hidden within—voluminous appendices. A good public servant, from training and experience, should be sufficiently skilled to

transform mountains of information into pinnacles of knowledge. Advice should be informed by the latest thinking and practice from around the world while being alert to the Australian context. Assumptions and uncertainties need to be made explicit.

The gathering of evidence should not stop once initial design decisions are made. It must be ongoing. Often interventions do not work as planned when they are implemented. Always the objective of early stages of program delivery should be to learn from the experience of doing. Policy makers need to be attuned, responsive and ready to make the adjustments necessary to ensure that the best possible approach is put in place.

Advice should present a range of viable options and set out the potential unforeseen or unintended consequences of each, together with a delivery strategy and a risk management plan. Implementation must be properly considered throughout the policy cycle.

Execution should be built into policy design rather than treated as an afterthought. Too often delivery matters are given tokenistic treatment, or settled without proper consultation with those who best understand the environment in which a policy will be delivered—often the public servants or community representatives on the frontline. Departments should ensure that ministers are briefed on strategic implementation issues, including on what options exist for implementation. In many instances that will require consideration of whether responsibility for delivery should be commissioned to providers outside of the APS. That will involve benchmarking and seeking alternative implementation mechanisms.

Mike Pezzullo

“Will this era be seen as one of... a close partnership between effective governments, high-calibre public servants working diligently together, and in partnership with civil society, industry partners and others?... These days departmental advice has to be highly influential and compelling. It has to be based... on strong evidence,... it has to be actionable, it has to be clear, and it has to relate to a clear public policy problem that’s been defined, [and] we have to be completely conscious of the fact that our advice and our views are going to be impacted, and properly so, by contested views.” (April 2014) ⁷³

Mike Pezzullo is the Secretary of the Department of Immigration and Border Protection

Good advice considers a range of perspectives

The public service has a role as a broker of information, perspectives and opinions. It must exercise the leadership of facilitation by consulting, arranging expert discussions, collaborating with business and not-for-profit organisations and ‘crowdsourcing’ a broad range of community views. Advice should be as open as possible to outside experience, with alternative ideas considered and assessed rather than ignored or peremptorily dismissed. Advice should harness knowledge from across government, other sectors and the public.

Consultation on large government programs and projects is often conceived far too narrowly. Good policy should harness the views of those likely to be impacted by the proposal. It needs to reflect a willingness to ‘co-design’ with those from other sectors who have on-the-

ground experience of delivering major projects. As performance-based commissioning of public services becomes more commonplace, it will be increasingly important to ensure that program design and implementation are ‘co-produced’. The possibility that there may be perceived conflicts of interest in involving community and business organisations that, in the future, may wish to tender to deliver government services, can be carefully managed.

**Frank and fearless
advice is
written down**

Most importantly, good advice is frank and fearless. Good advice is not only responsive—but also responsible. It is forthright, honest and impartial. It should seek to be as objective as possible. This can mean telling ministers things that they may not wish to hear, but of which they need to be aware. Only then can we be assured that decisions are made in full knowledge of all the facts. Governments should act with eyes wide open. At that stage, even if the Secretary believes the government is acting unwisely, the answer is necessarily, ‘Yes, Minister’. Only very occasionally will the response of a Secretary have to be firmly in the negative to ensure that their minister operates within the law, in accordance with parliamentary conventions or in line with established policy.

Giving frank and fearless advice can be difficult. It can be complicated by the desire to preserve good working relationships with ministers. There can be pressure to be ‘pragmatic’ and act in a way that is expedient or convenient. The community’s legitimate expectation that the APS serves the public interest with integrity requires more than this. It can require steely resolve. More generally, it requires innovative ideas and strategic thinking in order to present ministers with alternative options to meet their political objectives. Fearlessness should never become obstructionism.

Courage in giving ministers robust advice may be required regardless of whether it is delivered face-to-face or in a written briefing. Yet I have come firmly to the conclusion that fearless advice delivered orally is not the same as frankness written down. Oral advice can too easily give rise to misinterpretation or misunderstanding. It is more easily dismissed or forgotten. Committing advice to writing requires more coherent articulation of arguments and helps assure a shared understanding. For these reasons, policy advice can only be truly frank and fearless if it is supported by written argument. Ministers should demand that advice on the most challenging issues they face should be presented in written form. Ultimately, they should be able to expect that the advice received from their departments, whilst written in the interest of supporting them

Michael Thawley AO

*“I don’t think there is any reason not to give direct advice to government. People outside the public service talk about frank and fearless advice as if there was a state of perpetual hostility, but that’s not right. Public servants are interested in getting the right outcome and will do their best to persuade. Their interest is in the outcome, not a fight. If the government likes the advice it will choose it. If the government decides otherwise, it may reflect on our ability to provide a convincing argument or there may be other factors. It is not our business if there is a political reason.”
(April 2015)⁷⁴*

Michael Thawley is the Secretary of the Department of the Prime Minister and Cabinet

to achieve their objectives, is also forthright. Done well, this should enhance rather than erode an effective relationship between ministers and officials.

Accountability for the quality of advice begins and ends with Secretaries

Responsibility for raising the bar on the quality of advice rests with all APS employees. However, some problems will only be overcome by the exercise of strong leadership at the highest levels. Ministers are entitled to expect that Secretaries will be proactive in ensuring that the preconditions for robust advice exist within their agencies, take responsibility for maintaining high standards, and be clear and decisive in responding where organisational performance falls short. For their part, ministers should create an environment which is conducive to encouraging and receiving the best possible public service advice.

A review's conclusions cannot depend on entreaty alone. A few modest initiatives might help to give effect to what most Secretaries know only too well already. First, Secretaries should be willing to be held accountable for the quality of advice provided by their departments. The question is how best to implement this. Ultimately, it is up to the Prime Minister of the day to decide how this should be achieved, in consultation with the Minister Assisting the Prime Minister for the Public Service, the Secretary of PM&C and the Australian Public Service Commissioner. Secretaries' annual performance discussions are one existing opportunity to discuss the quality of advice provided to ministers by their departments. Written briefing can also provide an opportunity to enable ministers to comment on the timeliness, relevance, and value of the advice they have received: some departments already include a summary box on each submitted paper to allow the minister to comment in this manner. Shortcomings need to be identified and addressed in a considered fashion.

Ministers need to set expectations of frankness

Second, the minister-department relationship is strengthened when a Secretary has the good fortune of working to a minister who actively encourages frank advice. There may be value in capturing these sentiments in a Charter of Expectations which can serve as a guidepost for departments, ministers and their offices. The Charter could provide a standard against which performance can be assessed.

Third, in order to set a clear expectation about the requirement for significant advice to be in writing, the most effective mechanism would be for the Australian Public Service Commissioner to issue a binding Direction under the *Public Service Act 1999*.

Transparency of government processes and public access to government information is an important characteristic of participatory democracy in Australia. Making administrative decision-making more open to the public empowers citizens. It improves the quality and responsiveness of services. Similarly, increasing access to government data supports innovation by unlocking the economic and social value of information.⁷⁵ Freedom of information helps to assure transparency in the expenditure of public money and ensure accountability for the impact of decisions on individual citizens: indeed the community should be actively encouraged to use public information for all sorts of public purposes. Factual

information collected at public expense should generally be available to the public to use as it pleases.

Frank advice should be confidential

When it comes to advice based on opinion and judgement, and intended to inform deliberative decisions on policy, there needs to be a different approach.⁷⁶ Here the requirement for a relationship of trust between ministers and senior public servants means that arguments for confidentiality have much greater strength. It is far more difficult to be frank about politically sensitive policy matters when there is a real risk that one's advice will become publicly accessible. This is not to suggest that, where there are different views, the department's perspective will always be the correct one. Indeed my own experience suggests otherwise. Nonetheless, healthy differences of opinion between a minister and a Secretary will soon become a political issue if they are made public and can seriously damage the relationship between the two. Public servants, in the heat of a party political contest, face pressure to answer questions not on how they are administering a program but on whether departmental advice had supported it. If confidentiality is not assured, public servants will be tempted to temper their advice and ministers will prefer to receive advice only orally. This is a conclusion which is supported by an examination of the behaviours exhibited during development of the HIP.

Whilst openness and transparency are fundamentally important for good government, governments must be allowed a measure of confidentiality in the policy-making process. Not to do so burdens ministers and their advisers in a way that other decision-makers are not. The executives and board members of both for-profit and not-for-profit organisations rely on confidential discussions, and a CEO is not generally required to disclose details of the board's deliberations. Nor is there an expectation that the courts will circulate draft opinions or records of discussions held on the way to presenting a judgement. Indeed this would be seen as inimical to good process.

Australia's FOI laws go further than comparable jurisdictions

The introduction of Australia's *Freedom of Information (FOI) Act* in 1982 (and comparable legislation in other jurisdictions) created a legally enforceable right of access to government documents. Changes to Australia's FOI laws in 2010, undertaken as part of a broader push for more open government, were designed to further improve transparency and support public engagement in government decision-making and policy development.⁷⁸

The Commonwealth's FOI laws are now arguably the most pro-disclosure among comparable jurisdictions in Australia and overseas. The 2010 reforms involved a reformulation of the 'public interest' test that is applied to FOI

John Fraser

"Freedom of information has made people extremely careful in the public service about what they put on paper, and that's sad. Freedom of information is not a bad thing in itself. But open policy debate means people have got to be candid. And at the moment a lot of it is done orally, which is a pity. It's a pity for history And writing something down is a great discipline." (May 2015)⁷⁷

John Fraser is the Secretary to the Treasury

requests, creating a stronger presumption in favour of release (accentuated by listing the factors that must be considered in favouring release, but identifying none that count against).⁷⁹ Compared to other jurisdictions with Westminster-style systems, the Australian Government is now an outlier when it comes to making accessible frank and fearless advice that is intended to be provided to ministers in confidence. The United Kingdom (UK) and New Zealand Acts include specific exemptions to protect such advice.⁸⁰ The Queensland and Tasmanian Acts stipulate the factors that must be considered in favour of granting access and favouring non-disclosure.⁸¹ Relevant legislation in most other Australian states applies a more balanced public interest test, similar to that in place at the Commonwealth level prior to the 2010 reforms.⁸²

The Commonwealth's FOI laws now present a significant barrier to frank written advice. The Commonwealth laws have had the unintended consequence of constraining the content, form and mode of advice presented to ministers. Ironically, application of the revised public interest test has now had the unforeseen effect of lowering standards of public administration and, as a consequence, undermining the public interest in good policy. The public interest is certainly not served by having no public record of how and why decisions were made. Nor is there much benefit in gaining access to written advice that has purposefully been prepared to appear innocuous when released under FOI.

John Lloyd PSM

*"FOI laws are very pernicious. I think they have gone beyond perhaps what they intended to do and I think they do make us a bit over cautious and make some of the advice more circumspect than it should be, and I hope the government will address that and perhaps reassess the extent of some of those FOI laws." (March 2015)*⁸³

John Lloyd is the Australian Public Service Commissioner

Former ministers and current and former agency heads have gone on the public record to say that the potential for public disclosure is constraining advice to ministers.⁸⁴ Today, when frank advice is required, it is too often delivered orally rather than being committed to writing. Fewer records are being kept, and the written advice that is provided is more likely to be anodyne, carefully constructed to minimise any sense of vigorous disagreement. The consequences include a patchy record of decision-making and an increased likelihood of decisions being made based on incomplete or poorly argued information. This can ultimately only be detrimental to good governance and the public interest.⁸⁵

Advice that is honest and forthright is important. It ensures ministers make decisions with full knowledge of the facts and with their eyes open to the risks. The HIP involved instances where this did not occur. Of course, these failings took place prior to the 2010 reforms to the FOI laws but, given the impact of more pro-disclosure FOI laws since, one might conclude that public servants are even less disposed to offer frank written advice today.

The FOI Act should be rebalanced so that frank advice can be confidential

In truth, the problems with the application of FOI legislation are deeper than the 2010 amendments. The FOI Act should be rebalanced to remove

barriers to frank and fearless written advice being provided to ministers. The Act needs to explicitly recognise the value of robust perspectives in the advice process. In particular, the provision of frank advice and the benefits of a frank exchange of views as part of the deliberative process of government should be recognised as an important public interest consideration against providing access to documents.

A range of possible amendments to the FOI Act could support the above objective. The current public interest test, which is applied to requests for access to deliberative material, lists only factors that must be considered in favour of release. This could be rebalanced by listing those factors favouring non-disclosure (including the need to protect the frank and fearless advice given to a minister by a senior public servant). Alternatively—or in addition—an explicit exemption for frank and fearless advice could be introduced into the Act. The simplest and most attractive option under the current framework would be to strengthen the drafting of the current exemption for deliberative process to clearly describe the harm it seeks to avoid. This would make the construction of the exemption consistent with most others in the FOI Act and address the issue, identified by Allan Hawke in his 2013 review of the Act, that “the absence of a clear indication of the harm that the exemption is designed to protect results in the exemption being subject to differing interpretations and difficult to apply.”⁸⁶

There would also be value in widening the current exemption for Cabinet documents to make it clear that it includes drafts, early advice and other preliminary material that may not ultimately be submitted to Cabinet, but which is of such close proximity that its release could impair the confidentiality of Cabinet processes. At the same time there would be benefit in implementing one of the recommendations made by Hawke in 2013: namely, to add an exemption to the FOI Act to cover incoming government and incoming minister briefs (a key part of helping to prepare governments for office), briefs written for question time and Senate Estimates hearings.⁸⁷ The public interest in protecting the confidentiality of these briefings has already been recognised in recent decisions of the Australian Information Commissioner.⁸⁸ The matter should be put beyond doubt.

Such modifications to the FOI Act would make the conditional exemption for ‘deliberative matter’ easier to apply but only in a limited set of circumstances—where disclosure of information could compromise the ability of public servants to provide ministers with frank advice.⁸⁹ It needs to be explained that this protection would apply only to a tiny proportion of government documents. In 2013-14 the exemption for deliberative matter was applied to only two per cent of all FOI applications.⁹⁰ The proposals should not, be misinterpreted as part of a move to limit access to government information more generally.

**Much more
Australian
Government
information should
be open and
available**

Indeed, making more government information accessible is important. The arguments put forward in *Ahead of the Game: Blueprint for the Reform of Australian Government Administration* in 2010, that “the Australian Government become more open and that public sector data be more widely

available, consistent with privacy and secrecy laws,” needs to be given full effect.⁹¹ Major data sets and the factual information on how decisions are made should be in the public domain for all to use as they wish. Similarly, the results of policy and program evaluations should be made publicly available as a matter of course. With the huge advances in digital technology, shared information can build a stronger relationship between government and citizens. Equally important, individuals can often find new methods of using public information in unexpected ways to create public benefit.

Placing restrictions on freedom of information is extraordinarily sensitive. For that reason, the Government should undertake a thorough assessment of options for removing barriers to frank advice in the FOI Act. This should take into account not only the detrimental impact of existing legislation but relevant experience in comparable jurisdictions. It may be that a bipartisan group of former ministers, together with former Secretaries, could be appointed to investigate and report back to government on options and recommended approaches.

Written records of deliberative discussions need to be made and retained

The duty of public servants to provide frank advice in writing needs to be made clear and unambiguous. The HIP Royal Commission asked whether the deficiencies highlighted in departmental record keeping were indicative of a broader deficiency across government.⁹² They are. Indeed, it is surprising how many APS employees are unaware of their legal and professional obligations to record the business of government. As a result, record-keeping is too often treated as a low priority. This is something that should be corrected.

All significant advice and decisions that are part of an ongoing process of deliberation should be recorded. Much advice is part of an ongoing and iterative discussion. Part of the public servant’s role is to assess the points at which a record is required. This might initially occur in an email or a diary note, but it is important that all documents that inform decisions find their way into formal records management systems. Proper record-keeping allows others in the future to fully understand the reasons for a decision or action.⁹³ In the case of sensitive information, records may be tightly held and only released to the public after considerable time has passed. The record is no less important in these circumstances.

Ensuring a record of decisions is more challenging in the digital age, when ministers, their offices and departments deal with massive volumes of information. Today, most written communication takes place not on paper but through electronic media, and the iterative process of policy development is regularly conducted over email and SMS. Unfortunately, the most comprehensive guide to APS recordkeeping was completed in 2007, well before the current proliferation of smartphones and tablets within government.⁹⁴ The APS should rebuild the discipline of good record-keeping and modernise it for the digital age. Texts matter.

A requirement to create records is implied, though not explicitly stated, in the *Archives Act 1983*. The ANAO notes the lack of a single clear and explicit requirement for the public servants to create records of all of its key business activities and decisions,

although some categories of records are now specified under the *PGPA Act*.⁹⁵ Given the lack of consistency on record keeping, the National Archives of Australia should issue updated APS-wide guidance on the creation of new records, especially digital material, which should be endorsed by Secretaries. The foundation work to support such guidance is already underway.⁹⁶

We need to go back to the first principles of the Westminster tradition. Ministers are elected and appointed to make decisions. It is in the public interest that they make themselves as well-informed as possible in carrying out these roles. Whether ministers choose to accept the arguments of a public servant must be up to them. They, and the governments they serve, should be judged in the court of public opinion on the decisions that they make, not on the advice they choose to reject. It is not in the public interest to undermine good public administration by deterring public servants from writing down the full force of the advice that their ministers need to read—nor by prompting ministers to ask for such advice to be conveyed orally. It is far better to have a deliberative document held confidentially than for it not to exist at all.

Conclusions | Providing robust advice

A.1 Public service advice is vital to good government and, to this end, Secretaries should be held accountable for the quality of advice provided to ministers by their departments.

A.2 Whilst acknowledging the value of frank and fearless oral discussions, the Australian Public Service Commissioner should issue a Direction that significant advice also be provided to ministers in writing. Ministers should insist on receiving frank written advice from the APS, noting that it is generally their decision whether to accept or reject all or part of the advice.

A.3 The FOI Act should be amended to ensure that advice and opinion provided to support the deliberative processes of government policy formulation remain confidential.

A.4 An APS-wide policy on record keeping should provide practical guidance about when and how records must be created, including that records of deliberative discussions in all forms, including digital, should be retained.

B | Supporting Decision Making

PROBLEMS EXPOSED

In the past I have extolled Australian Cabinet processes, arguing that only Australia—in contrast with the UK and Canada—maintains the true tradition of Cabinet government.⁹⁷ Collective discussion and decision-making provide a firm foundation for good policy and effective public administration. When it fails, good governance is undermined. The HIP and NBN prove the case.

A major factor in many of the poor decisions taken in relation to both programs was failure in the operation of the Cabinet. Cabinet consideration was either perfunctory or replaced by an inner group of ministers making decisions free from wider scrutiny. Hanger found that significant decisions regarding the HIP were made by the Strategic Priorities and Budget Committee of Cabinet—three or four ministers that did not include the minister responsible for the program.⁹⁸ In the case of the NBN, the full Cabinet was not engaged in decision-making. That was one of the major reasons for policy failure.⁹⁹ As Scales recognised, “effective use of Cabinet processes is critical to better practice public policy process. The rigours of a well-argued Cabinet submission contribute to scrutiny, informed debate and decision-making within government.”¹⁰⁰

Collective perusal of a proposal provides a powerful antidote to peremptory decision-making. Each person can ask their questions and put forward their views. In presenting the 2013 Sir John Monash Oration, the Minister for Communications, the Hon Malcolm Turnbull MP, reflected on the fact that, under the Australian Cabinet system, “the Prime Minister is surrounded by people who have a standing of their own. They have a power base of their own. And that is very important. . . decisions have to be taken in a collective manner or should be taken in a collective manner.”¹⁰¹ Unfortunately, it would seem that such processes of collective decision-making were falling apart by the time HIP, NBN and BER were under consideration. According to David Epstein, who was the Prime Minister’s Chief of Staff, by late 2008, “[p]roper functioning Cabinet government ceased to exist. More and more the discussion was about politics and the real business was not conducted.”¹⁰² Many areas of government were affected. With respect to the development of an emissions trading scheme, for example, the “catalyst for the long slide towards a policy fiasco was [the] decision to abolish Cabinet’s climate change subcommittee.”¹⁰³ The former Minister for Agriculture, Fisheries and Forestry, the Hon Tony Burke MP, shared Epstein’s view. As he told Paul Kelly: “In the end we stopped making decisions at Cabinet. The official business of Cabinet took no time and then we’d have a political discussion, but with no agenda, no direction, no decision.” Terry Moran, then Secretary of PM&C, conveyed his concerns about the weakening of Cabinet processes, but to no avail.¹⁰⁴

Cabinet operations involve a difficult balancing act. Too much policy discussion in Cabinet, and the politics can be forgotten. Too much politics, and public administration can be

weakened. In the case of HIP and NBN the balance moved too far away from collective discussion and assessment of administrative challenges. The perceived need for quick decision making and rapid implementation drove the Prime Minister to circumvent traditional Cabinet processes. Critical perusal was avoided. As a consequence, government made extravagant promises based on ill-considered optimism. Most Cabinet ministers remained blissfully unaware that their public service agencies believed that they would be unable to deliver on the commitments. The consequence turned out to be catastrophic.

Another area of failure affecting the systems that support ministerial decision-making was the relationship between the APS and ministerial advisers. The relationship can go awry when there is a breakdown in mutual trust. Advisers, as gatekeepers, can make it harder for public servants to gain access to a minister and, worse, make it difficult to know if a minister has actually received the advice that the minister needs to consider. Blurring of accountabilities around policy advice to ministers leads to confusion and poor outcomes. In the case of the HIP, there appears to have been a breakdown in communication between departments and the responsible minister. Despite conversations between senior public servants and advisers about aspects of program implementation, too few of the officials' concerns reached ministers. At times, the minister did not receive written briefings and as a consequence decisions were made without awareness of all the relevant facts.¹⁰⁵

PROBLEMS ADDRESSED

(i) Cabinet

How a good Cabinet process works

Policy starts with an idea, which is worked up by departments and prepared for discussion by the Cabinet. Its submission requires the authority of the Prime Minister. Public servants in the lead minister's department prepare papers for the Cabinet's consideration, including submissions and memoranda. Occasionally, they provide short-form updates to facilitate an early discussion with their minister on the options for design and delivery of a new proposal. All documentation, formatted to address key issues, is meant to be informed by thorough research, rigorous analysis and genuine consultation across government departments. Central agencies—PM&C, Treasury and Finance—have an opportunity to provide their views. Often this process is iterative and conducted over several months; at other times the process is necessarily much faster.

Draft papers are circulated to other departments for comment, leading to further refinement of the proposal. The submission evolves into a document used to communicate the proposal to a minister's Cabinet colleagues. Whilst the majority of other ministers are not generally subject-matter experts on the policy at hand, they will have an interest in the implications for their own portfolios and constituents. They will assess a major project or program against the government's wider political agenda and the policy commitments already underway. By this stage, details of the proposal (and volumes of supporting analysis) have been distilled to their essence. A good Cabinet submission explains to ministers succinctly what they need to

know to make an informed decision, and ensures they are alert to the risks, possible unintended consequences and threats to successful implementation.¹⁰⁶ The submission is circulated well ahead of the Cabinet meeting so that ministers have time to consider it. During the Cabinet meeting, the relevant minister presents the submission and it is thoroughly discussed amongst the Cabinet, before a decision is made. Public service note-takers, seated around the corners of the Cabinet room, carefully record the discussion and, in consultation with the Cabinet Secretary, set down the decisions made.

There are well-established requirements designed to ensure good Cabinet process, particularly when a major new project or program is being proposed. The forward planning of agendas, oversighted by the Cabinet Secretary, assists ministers to properly prepare. Cabinet documents are made available to all ministers at least 10 days before they are considered by Cabinet. This gives responsible ministers the time to hone their arguments before they are put to Cabinet for decision. Central agencies and other departments are provided with the opportunity to review proposals and provide their perspectives on the merits of a policy and the manner in which it should be delivered. Coordination comments are an important opportunity for departments to signal their concerns.

If too many so-called 'under the line' papers (matters which are considered by Cabinet without the benefit of a supporting submission) are being prepared at short notice it is a sign of a Cabinet process in trouble. Except in true emergencies, they indicate that the policy commissioning process is poorly planned and that competing perspectives are either not valued or actively discouraged. Nearly always, implementation risks will be understated. Whilst urgent and unforeseen under the line proposals will be needed on occasion, these should be supplemented by a later submission to Cabinet that includes a properly considered implementation strategy. The same expectations ought to apply to decisions taken during the expedited phases of the Budget process.

When good Cabinet process falters, bad decisions happen

Good process is fundamental to supporting good Cabinet decision-making. It is designed to allow policy ideas to be tested and contested before they are put to the Cabinet for decision, and to ensure that ministers are as well-informed as possible about proposals before they enter the Cabinet room. They can be full participants in discussions. They can raise their concerns and have them addressed. Consensus can be reached.

Collective decision-making lies at the heart of Cabinet government. It requires ministers to be open and committed to a contest of ideas. Views which may have been firmly held can be reshaped based on considerations of merit, practicality and risk. Ministers can together decide if they wish to spend their limited political capital on a major new program. Departments contribute to the debate by providing coordination comments on the submission and briefing their ministers before they attend Cabinet.

With the benefit of hindsight, it is evident that the HIP and NBN (particularly in its second phase) were poorly designed policies, borne of inadequate consultation. Because good

Cabinet processes were compromised, public servants were unable to ensure an appropriate level of ministerial scrutiny and informed debate. The opportunity to seek further work to address weaknesses in design and execution was lost.

It is almost impossible to imagine either the HIP or the second phase of the NBN emerging from a proper Cabinet process in the shape in which they were ultimately implemented. Even before the proposals reached Cabinet, risks that had been overlooked or underplayed would almost certainly have been identified; the lack of consultation with the states or industry bodies would have rung alarm bells; implementation difficulties would have been highlighted; and, in all likelihood, a more realistic timeframe agreed. In the case of the HIP, the tensions between policy objectives would have been debated and resolved between departments or, failing that, in discussions between ministers in Cabinet.

**Cabinet submissions
belong to ministers**

Good Cabinet processes are not a matter of administrative convenience. Governments can decide how they want Cabinet to operate most effectively. Certainly ministers should have a strong investment in the submissions that they present to Cabinet. After all, they own them. By convention, ministers take full responsibility for the content, quality and accuracy of advice provided to the Cabinet under their name.¹⁰⁷ Ministers are expected to ensure that their Cabinet submissions provide enough detail on risk and implementation challenges to ensure their Cabinet colleagues can make an informed decision on the merits of the proposal.¹⁰⁸ When these responsibilities are eschewed—for example, when ministers disown submissions as the work of their departments rather than a proper expression of their own views—the foundations of Westminster ministerial accountability are undermined. Conversely, departments are expected to cede ownership of submissions. Cabinet memoranda are the appropriate vehicle for conveying a department's own views to the Cabinet where this is required. When it comes to submissions, any misgivings that public servants have about a minister's preferred approach should be argued out beforehand. That is a key purpose of frank and fearless briefing. The submission is intended to reflect the minister's perspective. It needs to win over the support of their Cabinet colleagues.

**Submissions need
to contain the
information needed
for Ministers to
make the best
possible decisions**

The quality of Cabinet submissions is a common topic of complaint from ministers. Each government publishes a Cabinet Handbook which sets out a preferred version of the Cabinet submission template. Often it undergoes subsequent revisions during the government's term in attempts to address perceived shortcomings in the advice that Cabinet receives. It is important to get the template right. It needs to facilitate efficient drafting by public servants and, most importantly, serve the needs of the Cabinet of the day by supporting good decision-making. It is for this reason that the key matters to be addressed are carefully prescribed. The present standards incorporate a statement of purpose; justification for the proposed policy direction (including the canvassing of options); the impact of the policies on those who will be affected; the views of stakeholders; information on how any proposals are to be implemented; key sensitivities and risks; regulatory, regional,

legislative and financial implications; financial costs; and, crucially, a clear set of recommendations.

The hallmarks of good Cabinet process need to be assured by PM&C as part of its coordination role, acting with the imprimatur of the Prime Minister and supported by his or her staff, including the Cabinet Secretary. This role should extend to providing assurance that the quality standards for submissions are met. This does not mean that submissions need to be long. Ministers do not have time to wade through pages of detailed supporting argument and analysis, but they need to be assured that the work has been done. At their best, Cabinet papers represent the apex of a 'policy pyramid', supported by extensive research, analysis, reasoning, consultation and testing.¹⁰⁹ A proposal should be refined and made shorter and simpler as it progresses through the coordination process and into Cabinet. The supporting information can be available to ministers should they wish to see it—and some of it may be sufficiently important to include in attachments to the proposal—but the essence of the argument and the critical supporting information should be condensed into a few pages. That is what public servants are trained to do. It takes skill, experience and (on occasion) a bit of savviness.

In a well-functioning Cabinet, submissions drafted by public servants that do not meet the quality standards agreed by the Cabinet—that have arguments that are poorly presented or are mired in too much unnecessary detail—should be sent back for more work before they get to the Cabinet Room. The ability of PM&C to reject submissions as part of its coordination role is paramount to maintaining these standards. Without this signal there is less incentive for departments and ministers to put their very best work in front of Cabinet. This should be the least we expect of the highest-level decision-making forum in our democracy.

Practical ways to ensure ministerial ownership of submissions

Inevitably, ministers can sometimes feel hemmed in by 'bureaucratic' guidelines. If the format is too rigid and ministers feel unable to present information to colleagues in the way that they think best, it can contribute to a reduced sense of ministerial ownership. Ministers can come to the view that Cabinet requirements effectively empower public servants at their expense. It is important to find ways of allowing ministers greater flexibility to make their case to colleagues without loosening the standards required of Cabinet submissions. A clear advantage is that a minister's ownership of a major program (and the burden of answerability, responsibility and accountability that goes with it) can be reinforced.

With this in mind, there would be value in setting aside the first page of all submissions for a ministerial statement, outlining in the minister's own words the policy's purpose, expected outcomes and anticipated implementation risks. They can be assisted by their advisers. Whilst it is likely that the body of a submission will still be drafted in the department (in consultation with the minister), the ministerial statement would provide a more personalised pitch to their Cabinet colleagues. With the agreement of the Prime Minister, ministers can be

given the freedom to present their proposal as they see fit whether by talking to their submission or using a PowerPoint presentation to highlight the key issues.

The proper role of PM&C coordination

Notwithstanding PM&C's role as a custodian of Cabinet process, it must be careful not to overstep the boundaries of its power. PM&C is at its best when it plays a coordinating role across government, honing arguments, reconciling differing views, facilitating a whole-of-government approach and encouraging the contestability of views to support more productive Cabinet deliberations. Their positional authority gives extra weight to their views. But coordination can become control. The HIP processes illustrate that the value of having PM&C co-ordinating policy development is "... undone when PM&C itself pushes a particular agenda at all costs and without having any detailed knowledge of the program or project."¹¹⁰ When such views are imposed on other departments they can unduly influence the advice provided to ministers and compromise individual ministerial accountability. When PM&C conveys a direction, whether of its own initiative or at the request of the Prime Minister or their office, a legitimate response by departments—indeed the responsible and prudent course of action—is to discuss with their own ministers the risks of the proposed approach and the merits of alternative options.

(ii) Ministerial offices

Ministerial advisers play an essential role in supporting ministers

My views on advisers have been made clear in the past.¹¹¹ I think they perform a valuable role in contemporary governance. They ensure that ministers (and shadow ministers) can be advised by people who share their political ideology. Their presence makes it easier for public servants to focus on apolitical advice. The advisers help their ministers to question and challenge the views of their departments. Monopoly is never a good thing, and in the provision of policy advice it can be particularly dangerous. On occasion public servants and ministerial advisers may vie for the ear of the minister. More often they will work together, respecting each other's particular roles.

My perspective is not universally shared. Staffers are increasingly portrayed as the villains of public administration. Critics suggest that they have grown too big for their boots. Jennifer Westacott, the Chief Executive of the Business Council of Australia (BCA), has called for the number or influence of ministerial advisers to be reduced. She characterises them as "political gatekeepers, with little experience and no accountability."¹¹² The *BRW* journalist, Leo D'Angelo Fisher, has gone further, claiming that "ministerial staffers treating public servants like second-class citizens is a feature of modern government."¹¹³ I am not of this view. Staffers play a valuable role in helping overburdened ministers cope with the increasing complexity of modern government. I concur with Lynne Ashpole, a former chief of staff, that advisers "work on behalf of ministers to mediate between policy committees, stakeholders, and interest groups like the BCA, in a way that apolitical public servants cannot".¹¹⁴ During my time in the APS I generally found that advisers made a positive

contribution to policy development. Of course, arguments can become heated, but the relationship is best perceived as one of critical collaboration, not a perpetual state of war.

Ministerial advisers play an essential role in supporting ministers to fulfil their duties. It is a diverse job: they apply political judgement to their advice on policy issues and media relations as well as providing personal and administrative support for their ministers. They broker relationships between ministers and their political parties, public service departments, broader interest groups, and constituents. The volume and complexity of ministers' workloads make 'staffers' an indispensable part of ministers' support structure. Ministers are assured that they can rely on people who share their political philosophy and with whom they have built a relationship of deep trust.

The distinct roles of public servants and advisers can help support better decision-making

The roles of public servants and advisers are distinct. The two groups operate under different legislative and policy frameworks. The Whitlam Government introduced

partisan ministerial advisers when it came to power in 1972, primarily to ensure that ministers would receive support from a cadre of individuals who shared their political convictions. The role of ministerial advisers was formalised by the Hawke Government with the passage of the *Members of Parliament (Staff) Act 1984* (the MoPS Act). While the role of the APS is detailed in legislation, those of advisers are largely governed by convention. This is true not only in Australia but in other Westminster-based systems of government.

Don Russell

"Departments should be able to provide advice on any subject within the minister's responsibilities that is better structured and better considered than anything that can be produced in the minister's office; the department has resources; the adviser tends to be on his or her own." (March 2014)¹¹⁵

Don Russell was the Secretary of the Department of Industry from 2011 to 2013. He is now the Chief Executive of South Australia's Department of State Development

In contrast to the roles of apolitical public servants, many advisers are explicitly political. While public servants provide non-partisan advice, advisers offer a partisan perspective. For the most part, these distinctions are complementary and ultimately beneficial to ministers. They add to the diversity of skills, experience, perspectives and ideas available to support decision-making. The presence of advisers allows public servants to be robustly independent in their advice, knowing that those in the minister's office are there to focus on the political challenges it may present. It brings competing ideas to the minister who, on occasion, can witness the clash of viewpoints played out before them. That's a good thing. As a Secretary, I always felt that if I could not win an argument on the basis of my intellect or experience, and marshalling the full resources of my department, then I was either ineffective or wrong. Often, I discovered, the informed perspective of an adviser was valuable.

Both public servants and advisers have a legitimate role in providing policy advice to ministers

The area in which the roles of advisers and public servants most converge is in providing policy advice to ministers. Both groups have a part to play here, and there can be competition between advisers and public servants as they each seek to influence ministers. Both sides will be seeking to persuade one another to their own point of view. Senior public servants may lament the increasing influence exerted by inexperienced ‘wet behind the ears’ political advisers, or ‘the boy scouts in the minister’s office’. Advisers may rail against the caution of ‘stodgy bureaucrats’ or the irritating self-importance of ‘mandarins’. But advisers and public servants who respect each other’s roles can together improve rigorous, informed and considered decision-making.

Of course, there can be tensions when advisers over-reach. Advisers should never be mere post boxes for conveying a department’s views: they play a legitimate role as gatekeepers to ministers. The ever-present danger is that they may seek to use their position to block APS advice with which they disagree, or leave public servants unclear whether or not the minister has seen departmental advice. In the case of the HIP, it seems clear that on at least one occasion information provided by the lead department did not find its way to the minister.¹¹⁶ Advisers should not prevent advice being seen by ministers without formal notification to the department and the creation of a record of this decision. When the source of advice becomes blurred—for example, if advisers seek to override advice provided by the APS without the authority of their minister, or if the APS too readily acquiesces to the position of the adviser—lines of accountability can be eroded and decision-making is compromised.¹¹⁷ At all times a minister needs to be clear on what advice has been provided by their department and what alternative views may be held by their advisers. It is then for the minister to decide which direction to take.

Advisers do wield significant power, but it comes from the minister. They are accountable to Parliament through their minister. Only with the authority of their minister do advisers have the right to instigate policy, to comment upon it and, on occasion, to veto it. They do not have the power to direct public servants to change their advice where it differs from their own view or that of the minister, nor to prevent departmental advice from reaching their minister in a timely manner. Notwithstanding FOI concerns, most ministers want to know the views of their department, even if they later chose to amend or reject them. When departmental advice does not reach the minister, it can only mean two things: poor management within the minister’s office or a misuse of positional power.¹¹⁸ In either case, particularly when the issue at stake is a major new program or large-scale project, decisions will be compromised.

There should be stronger guidance on the relationship between ministerial advisers and senior public servants

The *Statement of Standards for Ministerial Staff* sets out well the principles of personal integrity, professionalism and behaviour expected of ministerial staff.¹²⁰ It clearly recognises appropriate behaviours but it is not as unequivocal on these matters as it should be. The *Standards* says that advisers must “acknowledge” they are not authorised to direct public servants and “recognise” that executive decisions are the

preserve of ministers and public servants. Comparable policies and guidance in other jurisdictions instead instruct advisers on what they “must not” and “may not” do.¹²¹ Such explicit directions are likely to be more effective as a guide to practice.

There are also doubts about the level of awareness that advisers or public servants have of the *Standards*. The Prime Minister’s endorsement of changes to make the *Standards* more definitive, which would be a necessary part of any revisions, would raise their profile with both audiences. It would establish a strong ‘authorising environment’ by which to underpin cultural mores in the public sector.

There are other means that could be employed towards the same ends. The *Standards* could be strengthened by a formal system of enforcement and sanctions. It could also be legislated. That is the view of Terry Moran, my successor as Secretary of PM&C. He came to the conclusion that legislation is necessary because ministerial advisers are “becoming a black hole of accountability within our parliamentary democracy”.¹²² I do not propose legislation. It is true that not all actions of an adviser are an expression of the ‘persona’ of a minister, and that public servants need to be absolutely assured that the ministers have seen and expressed their own judgement on departmental advice. My view, however, is that the principle of ministerial accountability should provide an adequate check on the behaviour of ministerial staff and is in keeping with the nature of their employment contract—one of direct responsibility to their minister, who holds ultimate accountability for the conduct of their staff.¹²³ Given that advisers do not exercise executive decision-making powers, it would be inappropriate for them to be called before Parliamentary committees.

Despite the demands of their positions, ministerial advisers receive little role-specific training or institutional support. There is no formal induction process for new advisers. Most of their learning is on-the-job. They can be thrown into deep and often treacherous waters to sink or swim, with few people around able to throw them a lifeline should they need it. The inherent volatility of advisers’ roles, together with the vagaries of ministerial reshuffles and electoral cycles, means that the turnover of ministerial staff can be high. Of course there are trade-offs for these hardships. Working at the very heart of government can be a hugely rewarding,

John Fraser

“[Advisers] add value, there’s no doubt about it... it is a bit of a battle for departments at times, not just Treasury, to make sure there is cohesion on policy advice, and... order in how things go through.” (2015)¹¹⁹

John Fraser is Secretary to the Treasury

stimulating and exciting opportunity. Yet few public servants really appreciate how difficult and tenuous the adviser's position can be.

Conversely, advisers may not fully appreciate the role of the APS and the constraints within which public servants operate. Advisers often do not comprehend that much of the bureaucratic 'process' surrounding the manner in which departments work is intended to deliver a better outcome. Secretaries have to run large 'businesses,' and much of it may be outsourced. Increasingly, they are required to oversight organisations outside government that have been contracted to deliver major programs. Unlike advisers, Secretaries know that they face the prospect of having to account for their administrative actions before Parliamentary committees and to have their conduct scrutinised by the Ombudsman, Auditor-General and Administrative Appeals Tribunal. Not surprisingly, public servants feel much more keenly than advisers the responsibilities of management and the level of scrutiny under which they operate.

There should be more structured opportunities to build relationships between advisers and senior public servants

Investing in the relationship between advisers and public servants, and building mutual understanding, will benefit officials, advisers and ministers alike. Providing regular opportunities for ministerial advisers to participate in joint activities with those senior APS staff with whom they work would result in improved knowledge and shared understanding of each other's distinctive roles and would also create stronger working relationships.

These joint forums should involve experienced advisers and public servants as well as newcomers. The agenda should cover the principles, policies and legislation on which the roles and relationship are based, and the perspectives and experiences of both groups in advising ministers. This could be achieved in a number of ways. For example, the Australian Public Service Commissioner, in consultation with senior political advisers, could convene a regular half-day workshop for advisers and public servants, with course materials developed and presented jointly by former parliamentarians, advisers and senior public servants. Alternatively, an external organisation such as the Australia and New Zealand School of Government (ANZSOG) could be engaged to present seminars on practical policy development, available both to Commonwealth and state jurisdictions, with senior public servants and advisers encouraged to attend together.

There are few insights available on the relationship between advisers and public servants beyond the anecdotal. APS employees were last surveyed on their interactions with advisers in 2011, when over one-third of public servants who had direct contact with advisers reported that they had experienced difficulties balancing the need for responsiveness and impartiality.¹²⁴ In contrast, the views and experiences of advisers on their interactions with the APS have never been formally sought. Joint workshops, well facilitated, would allow perceptions to be tested and concerns addressed.

Movement of staff between departments and offices is beneficial

Another initiative that can deliver strong benefits for ministers, their staff and departments is the rotation of public servants through ministers'

offices as advisers. These well-established arrangements should be actively encouraged. Relatively little investment is required. The process helps to demystify the practical differences between respective roles. Ministerial offices benefit from the subject matter expertise and practical knowledge of experienced public servants, while APS employees gain valuable insights and experiences into the inner workings of government. The challenge is to ensure that an offer to work in a minister's office is viewed as a valuable opportunity with personal and broader public benefits, rather than being regarded as a poisoned chalice. People coming back to the APS (or joining for the first time from ministerial offices) must not be regarded as politically tainted. People join ministerial offices with a variety of motivations—often because they want to extend their career experience but also from a wish to make a fuller contribution to public life. Their learning can be harnessed on both sides of the role divide. It should be made as easy as possible for public servants to be reintegrated into their departments once they have done a stint as a ministerial adviser. Their return should be welcomed.

Senior public servants and ministerial advisers each have a duty to inform, and an opportunity to influence, government decision-making. At the end of the day, though, it is up to ministers to make decisions, and they are best able to do so when their advisers and officials work well together. By standing in each other's shoes, by openly recognising the nature of their different roles, mutual respect can be built. Good policy will be the reward.

Conclusions | supporting decision making

B.5 To acknowledge ministerial ownership of Cabinet proposals, submissions should open with a personal Ministerial Statement outlining the policy's purpose, expected outcomes and anticipated implementation risks.

B.6 In preparing Cabinet documents, Secretaries should ensure that the arguments presented reflect the viewpoint of their ministers. Assisted by government coordination processes, they also need to make certain that all relevant considerations for government are addressed in a clear and succinct fashion.

B.7 The Statement of Standards for Ministerial Staff should be tightened to provide explicit and unambiguous statements that advisers must not direct public servants without ministerial authorisation nor seek to make executive decisions.

B.8 Joint forums for ministerial advisers and APS senior executives should be conducted regularly to raise the efficacy of their working relationship and build mutual respect and understanding of the importance of their respective roles.

C | Creating a Positive Risk Culture

PROBLEMS EXPOSED

The potential for failure goes with the territory of public administration. Risk cannot be avoided. Not all potential dangers can be foreseen. The important thing is to identify as many risks as possible and to develop a strategy by which they can be handled. In discussion with ministers and advisers, a flexible plan needs to be prepared to manage program risks, which can be revised as execution challenges become more apparent.

Government needs to weigh carefully the risks of a major project against its expected benefits. In the case of the HIP this did not take place in a considered manner. There was no clear understanding or agreement between the Government and the APS on risk appetite. While the Government exhibited a heightened willingness to countenance risk in response to the Global Financial Crisis,¹²⁵ the reservations of officials, particularly about the proposed speed of implementation, were not effectively conveyed. Nor were public servants upfront with ministers about the ramifications of changes to program design which materially increased risks.¹²⁶

Hanger recognised that the “APS ought to brief ministers on the risks inherent in a recommended approach”.¹²⁷ This did not occur. In fact, the identification and management of risks in the HIP “was seriously deficient”.¹²⁸ It is imperative that risk assessments are hard-nosed and do not provide an overly optimistic view of what may eventuate. With the HIP this was not the case. A crucial step in risk management, understanding the operating environment, was skipped entirely in favour of identifying internal or procedural risk.¹²⁹ Responsible officials did not demonstrate capability in assessing, documenting and analysing risks within the broader context of the industry. Nor did they employ information from similar program roll-outs in order to assess emerging problems as they manifested. Effective risk management was hampered by poor understanding of industry dynamics, of regulatory frameworks, and of how government intervention would impact the existing industry and behaviour of individuals within it. Time pressures exacerbated the failures.¹³⁰

A lack of responsibility and accountability for managing the risks also proved to be a major problem. Responsibility for risk was abrogated. Hanger found a governance structure in which no-one seemed to accept personal accountability for ensuring that risks were appropriately managed.¹³¹ Teamwork became a convenient excuse to cloak individual responsibility. Internal management structures prevented effective review and oversight of risk management once things started to go wrong.¹³² When a significant number of parties are involved in program delivery, it is critical to understand how risks are allocated between them. This did not happen. Hanger found that the APS failed to consider what would happen if its delivery partners (whether the States and Territories or the insulation installers themselves) did not understand or accept responsibility for risk management.¹³³

PROBLEMS ADDRESSED

At one level, risk management can be perceived as just a term for 'what could go wrong'. That is only one aspect. Indeed, too often in the APS, 'managing risk' is reduced to 'managing issues' – seeking to address problems that have already emerged. Moving from a culture of issues management to one of risk management is difficult: it involves thinking systematically rather than reactively and identifying opportunities and not just threats.

Risk management is still focussed on process, not practice

The APS still places the weight of program and risk management on templates, tools and processes, rather than instilling a culture of judgement, initiative and capability. Risks often manifest because the desire to 'do something' results in 'solutioneering': governments announce a solution before properly scoping the problem, and then try to retrofit the appropriate risk, governance and oversight requirements. Whether because of policy arrogance or 'cookie-cutter' compliance, this is a lost opportunity.

Public servants have a reputation for risk-aversion when it comes to implementation design and for taking the path of least innovation. Often this is deserved, and it reflects in part at least the higher public expectations and levels of scrutiny that apply to government compared with the private sector. Yet when it comes to considering risk during the policy design phase the public service has too often been impetuous, designing policies without reference to those that best understand the risks.

Comcover conducts an annual benchmarking exercise of agencies' risk management maturity, where maturity ranges from 'fundamental' through 'developed', 'systematic', 'integrated' and 'advanced' to 'optimal' (the highest level of maturity). Benchmarking also enables participating agencies to identify areas for improvement and compare themselves to peers. While some significant progress has been made in recent years, most agencies' risk maturity remains well below the 'optimal' status.¹³⁴ It is true that agencies are encouraged to strive for risk maturity ratings that are fit for purpose for their organisation, and that not all agencies will need to achieve the optimal rating. Nevertheless, the link between risk practice, the day-to-day administration of agencies and their strategic objectives remains weak.¹³⁵

The *PGPA Act* represents a significant and positive step towards developing better risk practice and culture. The risk management policy established under the *PGPA Act* is designed to assist Accountable Authorities (departmental Secretaries, agency heads and governing boards) to engage positively with risk, in order to embed risk practice into business processes.¹³⁶ If fully implemented, the notion of 'earned autonomy' enshrined in the Act has the potential to be a game changer, creating a strong incentive for agency heads to embrace the necessary cultural and organisational changes to achieve this status.¹³⁷ However, if the *PGPA Act* is to achieve its objectives, APS risk culture needs to evolve. Legislation will not change culture: people and their actions do. As recently noted by the Chair of the Australian Prudential Regulation Authority, good risk practice is about behaviour, not structure.¹³⁸

Setting risk appetite starts with ministers

Setting a risk appetite starts with a structured conversation between ministers and Secretaries. It is essential that ministers clearly articulate their risk appetite to departments, having regard not just to a particular project, but to the gamut of risks embodied in the range of programs already being delivered. Once agreed, Secretaries need to devolve this information throughout their agency to align departments' functions with their ministers' risk appetites. Everyone should understand their responsibility. More junior staff should have a clear line of sight to the minister's risk appetite, and the Secretary should have a strong understanding of risks taken at the front line.¹³⁹ Information needs to flow freely in both directions.

Risk appetite will vary between programs and sectors. Secretaries and ministers should meet regularly to consider the risk profile of new policy and program initiatives, assess progress to date and identify emerging risks to implementation.

Risk management is a skill that can be learned. A recent survey of Senior Executive Service participants in the APSC's risk management program found that, prior to attending, around half did not feel confident in talking to ministers and senior leaders about risk. Encouragingly, more than 90 per cent of attendees reported that training gave them the confidence, skills and understanding they felt they needed to pursue these conversations.¹⁴⁰

Cabinet decisions must be made with eyes wide open to risk

Cabinet scrutiny of risk is a fundamental part of the decision-making process. Since 2009 a number of steps have been taken to improve the consideration of risk information in the Cabinet process. Currently, all new policy proposals require completion of a Risk Potential Assessment Tool (RPAT), indicating strategic risk, implementation complexity, legal risk and an overall risk assessment. Compliance is checked by the Department of Finance before the proposal proceeds to Cabinet, but the information from the RPAT is not included in the submission itself.

For ministers to make informed decisions, they need to be provided with clear information about the risks they are accepting and the resources available to manage these risks. This must be contextual. Ministers need to understand the specific risks associated with individual projects and the cumulative impact of accepting further risk (financial, legislative, procurement and implementation) relative to the government's overarching risk appetite. Departments now complete a preliminary risk assessment when developing a new policy proposal. Some also formulate a risk plan. This is excellent. There would be value in making these plans mandatory for major projects and programs, and

Ian McPhee AO

"As for many organisations, in the public sector there is still more to be done to embed risk management in organisational behaviour in a way that means all employees contribute positively to stronger outcomes through more effective engagement... risk management and business planning need to be integrated so that the organisation's models and approach are readily understood, at least in a general way, by all employees." (October 2014)¹⁴¹

Ian McPhee was Australia's Auditor-General between 2005 and 2015

having them scrutinised by the Department of Finance and PM&C and endorsed by the responsible minister(s) before the proposal proceeds to Cabinet. This would provide all members of Cabinet with a degree of comfort that risks had been appropriately assessed, while still ensuring that responsibility for accepting, managing and treating risks sits squarely with the responsible minister and department. The risk plan should be made available to any minister who wants to see it prior to the Cabinet meeting. Critical information about risk that could alter the course of a decision should sit front and centre in the documents that are prepared for Cabinet.

Informed decision making requires assessment of the specific risks being accepted and the broader context.

Considering risk on a case-by-case basis at the time of decision does not provide adequate insight into the wider whole-of-government risk landscape within which the proposal sits. Just as Cabinet, or its Expenditure Review Committee, considers the aggregated out-year cost of individual proposals, so it should also be aware of the government's cumulative forward risk profile. Without this, it is difficult for Cabinet to appreciate the full suite of risks to which it has committed across government and make an informed decision about how a particular program may fit with, or be adapted to, the prevailing risk appetite.

In other sectors, decision-makers now play an important role in setting risk appetite and instigating a positive risk culture. Governance boards in companies and not-for-profit enterprises receive robust and regular risk briefings, which enable them to align each decision or investment with an overarching organisational strategy. Indeed, such informed decision-making is a core part of the fiduciary duty of directors.¹⁴² Decisions are based on historical experience, aggregation of risk and treatment options throughout the business and the balance of risk versus reward. Cabinet needs to be supported by APS executives to oversight risk in a similar manner. That discipline is as important to public good as it is to profit or social mission.

A periodic risk statement to Cabinet analysing operational, financial, strategic, legislative and procurement risks across government would strengthen its decision-making functions. This should not take the form of a portfolio-by-portfolio co-ordination exercise of detailing every single risk currently present in Commonwealth operations. That would be unnecessary red tape. Rather, it should be a smart, targeted and strategic exercise to identify and assess the status of the most significant risks facing government. The information could be presented in a concise, dashboard-style manner so as to clearly convey the manifestations of risk across government. This periodic Risk Assessment could be developed by the CROs oversighted by the Department of Finance. CROs are discussed below.

Individuals need support to adopt a positive risk culture

Reliance on process at the expense of informed professional judgement destroys individual autonomy, diffuses responsibility and compromises the future success of new policies or programs from the start. With performance

indicators for risk maturity appearing to have plateaued across the APS,¹⁴⁴ a catalyst is needed to drive cultural change and improve risk engagement and rigour. Despite the gains made through the *PGPA Act*, there is still significant work to be done to embed a positive risk culture in many government agencies. Legislation alone does not change culture—it is up to the people and the support and leadership they receive.

Glenys Beauchamp PSM

*“I want people who take risks. I think we need to promote and encourage resilience, although we get criticised when we try to do this.” (March 2015)*¹⁴³

Glenys Beauchamp is the Secretary of the Department of Industry and Science

A positive risk culture allocates resources to monitoring of risk and puts in place efficient systems to escalate information to the person best placed to judge a plan of action. Too often in the APS, more effort is put into managing things that have already gone wrong. Risk management, by contrast, involves identifying and monitoring the *potential* for things to go wrong, and putting in place lines of defence to mitigate against these. The old adage that ‘prevention is better than cure’ remains appropriate. While risks cannot be prevented, it is easier and less expensive to manage them when they are considered early in the design phase. However good the planning, implementation risk needs to be considered at every stage of policy development. This is particularly so when delivery is outsourced to third-party organisations. Agency risks need to be addressed in the commissioning process—including the danger that a heavily prescriptive risk-averse process will undermine effective delivery of intended government outcomes.

There is no doubt that this approach is challenging. It requires foresight, judgement and commitment from individuals at all levels to be effective. In organisations that have achieved positive risk cultures, individuals are expected to identify and respond to risks in their own sphere of influence, rather than assuming that responsibility sits with senior managers or risk committees. They know who to approach in their agency if they need help, they receive support to identify and treat risk as early as possible, and they know that when they identify problems their concerns will be appropriately addressed by management. Knowledge of risk needs is widely shared.

There is much to learn from this approach. The APS too often places exclusive responsibility for risk management too high up the bureaucracy, away from the people who may be best placed to identify and act on it. This unwittingly creates two new problems: it overcrowds senior leaders’ agendas; and it removes management of implementation risk from those who may be most informed about how to manage it.

Smaller risks can accrete to form significant risks to implementation

Understandably, the APS focuses risk management on big risks to the government, but as a consequence it may underplay the smaller risks which, over time, can lead to significant program failures such as fraud, wastage, delay or poor service. The HIP has taught us that the accretion of multiple minor risks can lead to catastrophe. Devolving more responsibility for risk management to junior levels and paying more attention to 'near-miss' events, especially on the front line, will help build a positive risk culture and minimise the likelihood of large-scale failures in the future. Tasked with identifying and investigating the causes of risks, operational staff should be empowered to contribute their own perspective to the design of new programs and projects. This increases the likelihood that risk can be 'engineered out' at the design stage.

Risk must be built into policy design

The management of uncertainty should sit at the core of public policy design. Major programs, if they are to be fit for purpose, need to be able to achieve intended outcomes even in adverse circumstances, rather than only delivering effectively in benign conditions.¹⁴⁵ That will be more likely if management experience gained from policy implementation is incorporated into design. Agencies with positive risk cultures conduct risk workshops at the beginning of policy design and involve their risk experts at every step of the journey. Risk-based policy design creates a clear relationship between individuals implementing a major new program, the leadership of their organisation, and a minister's risk appetite. Importantly, it can reduce the overall impact and number of material risks associated with the program, allowing active risk management to be more focused and easier to execute. Crucial to this approach is close collaboration between ministers, the public service, service delivery agents (public, private or community organisations) and industry stakeholders. This enables risk to become part of day-to-day business, rather than treated as a 'one off' activity.

Chief Risk Officers can be change agents

Dedicated leadership is needed to grow and nurture a culture of positive risk management. The appointment of a Chief Risk Officer (CRO) can put in place a change agent to drive organisational innovation. CROs can play a major role in assisting organisations to build more positive, engaged and active behaviours around risk. They can play the role of a 'critical friend'—not simply saying "no" to proposals, or "have you thought of all the things that could go possibly wrong", but asking "on what basis can we say yes?" and "what needs to go right for this to succeed?". Their strategic importance to an organisation should be reflected in their seniority and by their position as a member of the senior executive team. In the public sector they need to have detailed knowledge of the government's objectives, their operating environment, organisational capability and available resources. It is best if they are directly accountable to the agency head, and have the authority to effectively challenge activities and decisions that may materially affect the department's risk profile.¹⁴⁶ Ideally CROs should look beyond individual risks to appreciate broader trends.¹⁴⁷ No government department should initiate a major new program or large project without the active participation of a CRO.

The position demands full authority from the top to go everywhere and explore everything, ensuring that risk considerations influence work practices, funding decisions, program design and delivery and organisational strategies. The CRO should be tasked with developing a control framework for effective implementation of major projects. More generally, they need to instigate discussions across the agency on what risks can be accepted and managed, and what level of management engagement will be required. Of course, there is a danger that the CRO will be perceived as the ‘fall guy’ for organisational failure.¹⁴⁸ Even worse, the creation of such a position might allow others to abrogate risk management without exercising their own judgement or shouldering their own responsibilities. This must not be the role of a CRO.

The *PGPA Act* establishes duties for departmental Secretaries and agency heads to establish and maintain appropriate systems of risk oversight and management.¹⁴⁹ But Secretaries and agency heads have limited time. Appointing suitably experienced and empowered members of the Senior Executive Service as public sector CROs to support them will provide a catalyst to drive best practice risk management and behaviour. In agencies with large project responsibilities, the position should be a full time job. They should have the ability to motivate others and work across organisational boundaries. They should add value, not add new lines of reporting. The CRO must support the agency head to lead the longer term shift to a positive risk culture, creating an organisation in which consciousness of potential failure is part of everyday practice for every employee. A CRO's success should be judged not by the number of systems and structures that they set up, or by the number of guidelines they issue, but by the positive behavioural change they bring about. For this, they will need access to the ‘top table’, so that risk consideration is brought into the strategic and operational decisions of the agency. They will need to be visible. They also need to be properly resourced. A rule of thumb in the private sector is that around 1 per cent of resources should be devoted to risk management activities. Perhaps that is a good guide to organisational expenditure. However, as will be apparent from any course on Risk Management 101, the key is to recognise the potential returns on investment achieved by reducing future costs.

It is appropriate for the CRO to oversee and co-ordinate the development, monitoring and maintenance of risk management plans by Senior Responsible Officers (SROs). The plans need to be ‘living documents’ as implementation progresses. Risk planning cannot be a one-off exercise, with a ‘set and forget’ template mentality. Risks must be continually reassessed to prevent unintended accumulation of risk beyond the agency's and government's risk tolerance. CROs should also be responsible for working with the Department of Finance to prepare the proposed bi-annual Risk Assessment for Cabinet.

Audit and Risk Committees play an integral role in effective program governance

Supporting the CRO and the agency head, effective risk and audit processes provide an important means of assurance to the agency head and minister. Audit committees play a critical role in public accountability, reducing the risk of fraud and improving financial processes.¹⁵⁰ It is good practice that they incorporate the experience of independent experts from

outside the public sector. Many already do so.¹⁵¹ However, audit committees, by their nature, tend to look backwards at what has already transpired, rather than forwards at what risks might be approaching.

In some large agencies—particularly those with complex program initiatives to deliver—separation of risk and audit functions would better serve the move towards a positive risk culture.¹⁵² Membership of a risk committee should be sufficiently broad to fully consider the strategic risk posed by the delivery of services to the public, rather than focus only on internal corporate and financial risks. Specialist external appointments may be needed to support this function. A separate risk committee would also provide a forum to proactively address the major risks that may impede the organisation successfully implementing the goals of government. Just as importantly, a risk committee would also consider the potential for activities to adversely impact the community and environment in which the organisation operates. Over time, this will build organisational capability, helping departments and agencies to achieve earned autonomy status as envisaged in the *PGPA Act*.¹⁵³ In addition, SROs for large or complex projects or programs should regularly provide updates to the risk committee on the challenges facing their business and how they propose that implementation obstacles will be overcome.

Risk is one of the most important considerations in the design and delivery of large projects and programs. Unfortunately, as the former Auditor-General Ian McPhee told the Department of Parliamentary Services, good risk management is invisible because, “only risk management failures attract attention and headlines”.¹⁵⁴ The challenge is to stop bad things happening. That requires ministers and Secretaries to show by example that engaging with risk is what governments do, and that it is the job of every public servant to play their part in managing it. Risk management lies at the heart of getting the best value from public funds.

CONCLUSIONS | Creating a Positive Risk Culture

C.9 To inform and improve policy design, departments and major agencies should gauge their ministers' appetites for risk on individual programs and across their portfolio, and reach agreement on how implementation challenges will be identified, accepted and managed within agreed resources.

C.10 Departments and major agencies should appoint a Chief Risk Officer, at a senior executive level, who will be responsible for embedding a strong risk culture and behaviours across all levels of the organisation.

C.11 All major Cabinet proposals should be supported by a minister's endorsed Risk Management Plan, submitted to PM&C and the Department of Finance, and available for perusal by other Cabinet ministers.

C.12 In order that governments remain aware of the cumulative impact of their decisions, the Department of Finance should facilitate a bi-annual whole-of-government Risk Assessment for the Cabinet, analysing the system-wide impact of operational, financial, strategic, legislative and procurement risks faced by government.

D | Enhancing Program Management

PROBLEMS EXPOSED

The APS's professional capacity and technical capability in program management was roundly criticised in the HIP Royal Commission. Hanger found that DEWHA had next to no project management capability. Nor did it have the capability necessary to deliver a program of such size and complexity.¹⁵⁵ Despite being aware of this deficiency, the department failed to recruit staff with the necessary skills. Hanger was struck by the numbers of departmental staff, often in senior positions, who had no program management experience or qualifications.¹⁵⁶

Perhaps we should not be surprised. Of the twenty Capability Reviews conducted by the APSC and released to date, eleven have noted that departments struggle with project management skills and program management practices.¹⁵⁸

Successive ANAO reports have confirmed these findings, finding evidence of poor program and project management capability, particularly on more complex initiatives. Risk management, governance controls, financial and stakeholder management and benefits realisation have been identified as major areas of weakness in a number of programs.¹⁵⁹ The HIP was unusual in the scale and seriousness of its consequences, but the

problem of not having in place people with the professional skills and experience to do the job is all too familiar. Hanger was well aware that past failures had engendered statements from government agencies of good intentions to lift their game. He argued that agencies' commitments to 'increase capacity' were too often a euphemism for promising to redress glaring skills gaps. The difficulty of building institutional competence and capacity was generally underestimated.¹⁶⁰ Too little changed.

Poor program management capability in DEWHA was compounded by inadequate governance structures, including a lack of clarity about who was accountable for what aspect of implementation. No Deputy Secretary was given the exclusive responsibility for overseeing the program. Hanger found evidence of officials' inability or unwillingness to make decisions, exercise judgement, or express contrary opinions within the HIP PCG. This led to poorly informed decisions: by omission or by committee.¹⁶¹ External experts were brought in to take responsibility for critical aspects of the program, such as risk assessment, business planning, project management and evaluation, but some of these consultants considered that they had a relatively limited role. They may have taken care but they did not accept responsibility.

Peter Shergold AC

"If there were a single cultural predilection in the APS that I would change, it would be the unspoken belief of many that contributing to the development of government policy is a higher order function—more prestigious, more influential, more exciting—than delivering results" (2005)¹⁵⁷

Peter Shergold was the Secretary of the Department of the Prime Minister and Cabinet from 2002 to 2007

Whilst there can be a strong temptation to outsource 'process'-oriented tasks, in practice this runs the risk of de-skilling staff and failing to harness essential practical and subject-matter knowledge. External consultants have their place. Used properly they can contribute good value. But they should not supplant fundamental departmental know-how nor be a means of abrogating responsibility. Indeed, the HIP should serve as a cautionary tale against undue reliance on external consultants for functions that should be core to departments' program management accountability.

Terry Moran AC

"Our sector tends to lack many of the 'strategic policy' capabilities common in the private sector, including commercial strategy, business planning, project management, IT and systems, capability development and accountability." (October 2014)¹⁶²

Terry Moran was the Secretary of the Department of the Prime Minister and Cabinet from 2008 to 2011

Almost a decade ago I delivered an address to the Department of Environment and Heritage (ironically, a precursor to DEWHA), extolling the virtues of project management. The message was simple: it is better for a government to have no policy at all than to develop a policy, announce it and then find out that the public service is unable to deliver on it. It is much more damaging politically to dash the public's expectations. Watching from the outside the roll-out of the HIP has reinforced these views. The APS continues to have a problem.¹⁶³

PROBLEMS ADDRESSED

The characteristics of good project and program management

The terms 'project management' and 'program management' are often used interchangeably in the APS without full understanding of their meaning. This reflects in part the relatively low priority that they have received, compared to other professional disciplines in the APS.

Project management is a formally recognised, often certified, discipline. It is based on a prescribed but adaptable methodology that trains practitioners to deliver clearly defined results, often in the short term. Program management, on the other hand, is a more multifaceted and complex discipline. While program management is underpinned by project management skills, it is a more complex and demanding discipline. Sometimes a 'program'—as governments define them—may comprise one large and complex project. More often, though, the task involves aligning multiple projects in pursuit of longer-term strategic objectives. The defining feature is a focus on delivering outcomes and achieving results. Good program managers typically have experience in policy design as well as project implementation. Sometimes they have been engaged in co-design, where delivery and policy work together. They understand the importance of good governance and external engagement to the successful management of programs. Program management is difficult work. It involves planning, organising and allocating resources to achieve goals. Too often forgotten, it requires the ability to motivate people across the organisation and outside it to realise the outcomes and benefits of a government program.

In the APS, program managers may be responsible for numerous multi-million dollar projects that are running concurrently. Effective program management involves more than strict adherence to a prescriptive methodology. Leadership skills, judgement, common sense, initiative, effective communication, negotiation skills and a broad perspective on the surrounding environment are all essential. Program management is a creative and collaborative process.

Program management in the public sector continues to evolve as a practice due to greater demand for innovative, citizen-focused delivery models. Program managers are now required to understand how to apply market-based mechanisms (such as reverse auctions or consumer-centred funding) and outcome-based contracts.¹⁶⁴ They must embrace digital engagement as a means of encouraging real-time feedback. They need to learn quickly. Program management in the APS now calls for agility and adaptability.

Tracing the career of a program manager

Project and program management are best viewed as placed on a continuum of complexity: a practitioner progresses from oversighting simple to more challenging projects and then goes on to develop a more strategic approach to integrating a diversity of longer-term management objectives.¹⁶⁵ The level at which a person is able to operate is an indicator of their career progression. Typically, a new project officer may commence their career with a short online course, and then work their way through internal training and accredited workshops in order to build their capability. Through further practical experience and competency-based training, the project officer may progress to a more senior role, taking on a full range of tasks from project initiation to completion. Program managers in the top echelon are likely to have years of experience, tertiary education, a commitment to continued professional development, demonstrated leadership and a track record of success. Often they possess a specialty in a particular aspect of program management such as benefits realisation or risk management. This progression may take over a decade. Managers will probably sport battle-scars.

Public service departments with mature program management capabilities value the experience and skill of their professionals. They assist them to gain experience and acquire professional accreditation. They provide financial support for participation in communities of practice. Some agencies, like the Department of Human Services, have already established a centralised model of program management to build internal capability, provide an independent level of assurance for programs with enterprise-level risks and oversee effective program delivery.¹⁶⁶ Such initiatives are to be warmly welcomed. They should be shared.

The need for clarity about who has end-to-end responsibility and accountability for managing implementation

Having a single point of accountability is a cornerstone of project management methodologies.¹⁶⁷ The evidence from the HIP reveals that there was a lack of clear articulation of the role of the senior responsible officer and the abrogation (and devolution) of responsibility to 'the team'.¹⁶⁸ A named individual needs to be accountable for the end-to-end delivery of a project or program, within agreed timeframes and conditions,

through their Secretary, to the minister.¹⁶⁹ While they can, and should, delegate tasks to suitably experienced and qualified members of their team, including those tasked with delivery from outside government, accountability for the success of a policy's implementation must remain squarely with the SRO.¹⁷⁰

Single point accountability is not about greater bureaucratic proceduralism or endless layers of reporting. Indeed, bureaucratic concerns about probity and agency have, traditionally, hindered exactly the kind of collaboration and flexibility required between the APS and the non-government organisations involved in the co-production of public policy outcomes.¹⁷¹ Emerging forms of governance, such as 'network governance' offer the promise of more 'joined up' services without a concomitant reduction in the accountability of all of the actors involved.¹⁷²

Network governance models may at first glance appear to blur these lines of accountability, with multiple government agencies and third party delivery agents being responsible for aspects of implementation at different stages of the project or program. The establishment of program advisory committees, capable of engaging in both formal and informal stakeholder consultation, is a useful way of formalising channels of advice from diverse perspectives to the SRO. This does not mean that the SRO can abrogate their responsibility to 'management-by-committee'. Rather, SROs must ensure that each contributor is clear on their responsibilities, how performance will be indicated and measured,¹⁷³ their decision-making capacity and where they fit within the program governance structure. In the end, they remain accountable for ensuring that the job gets done well.

Project and program managers require minimum standards of competency and ongoing professional development

Many competent project managers work in the APS. They oversee the multitude of projects which abound throughout government. Surprisingly however, there appears to be a decline in the number of high-quality, experienced and qualified practitioners at the very time that the complexity of government projects is increasing. The emerging capability gaps are being filled by public servants who have fallen (or been pushed) into these roles. Often they have limited experience and qualifications and are given insufficient support.

The importance of formal qualifications should not be underestimated. One of the best levers to mitigate risks associated with program delivery is to have properly trained and certified practitioners. It seems inconceivable that an agency would put an 'unqualified' manager (someone lacking accredited proficiency) in charge of a multi-million dollar program, but in fact this occurs regularly. Formal qualifications and demonstrated proficiency are a prerequisite for many professions that are given authority for financial and administrative risks inside and outside of the APS: consider, for example, lawyers, engineers, veterinarians, accountants and auditors. These professions have long-standing educational requirements which provide a degree of assurance to employers of the competency of the practitioner. The more senior the practitioner, the higher the level of qualification that is expected. So, too,

should it be expected with project and program managers. The need for professional certification has been recognised by industry associations and training institutions in Australia and overseas.

This is not to suggest that pursuit of formal recognition of specialist skills should detract from the value placed on experience. Rather, APS agencies need to identify and encourage talented project managers and then support them to map out a career path to more senior program management roles. Agencies need to be discerning consumers of the training products on the market, and access the best ones that can be tailored to APS processes. Program managers need to be prepared for an evolving public sector environment.

The APSC would be well-placed to work with industry associations to develop suitable project management and program management standards relevant to the public sector context. Setting minimum competencies, subject to the operational requirements of each agency, would increase the professional standing of project and program management skills within the public service. It would significantly strengthen APS delivery capability.

**Communities of practice
keep the profession
up-to-date**

In addition to formal professional recognition, the availability of ongoing professional development helps practitioners to continually improve their understanding of their field of expertise. Having opportunities to network with professional colleagues is a useful way to build collective expertise.

Communities of practice should be supported. They enable members to develop and share a suite of resources and can draw upon collective capability for virtual support, hands-on assistance or the identification and recruitment of talent. Some also provide a mechanism for continuing education through professional certification.

Many program management communities currently exist.¹⁷⁴ They draw together practitioners working across the APS, in state governments and the private and not-for-profit sectors. They provide a breadth and depth of experience and insight. As a way to facilitate participation in a professional community, agencies should support staff attending these forums as a vehicle for career development. In return, those staff should be asked to drive continuous improvement of program management in their home agencies.

A role for tiger teams

There will always be occasions in the public sector when the right combination of expertise and subject matter experience does not exist within an agency to effectively manage a major program. That helps to explain why the development of policy supporting a program can be the responsibility of one agency, but implementation is sometimes assigned to another agency with specialist delivery capability. Not every agency has—or needs to have—equal capability ‘on tap’.

Such situations may call for highly trained and experienced program managers from across the APS and private sector that can be used as a shared resource, able to be mobilised as they are needed. Hanger suggested establishing a “central team of project implementation specialists that could be deployed to an area that needed resources and expert advice”.¹⁷⁵

There are a few different models for achieving this. One is centralised centres of excellence where expertise is clustered in the one department. For example, AusIndustry provides a single point of business between the Commonwealth Government and businesses, including managing grants programs for other departments.¹⁷⁶ It provides for career development, creating expertise and assurance that risks are being well managed. Centres of excellence work best for activities that are more transactional, where scale breeds efficiency and the connection to policy objectives, stakeholders and the broader environment is less critical.¹⁷⁷ For complex major projects like the HIP, a more bespoke, agile capability is required. The notion of establishing a 'tiger team' is one that should be adopted. It would assist the APS to meet future challenges of government program delivery, particularly with new, large and complex initiatives.

Internationally, tiger teams have already been used to great effect for short-term, high-stakes program implementation. In particular, the United Kingdom Civil Service has successfully adopted this model to deploy scalable rapid response program management teams under the direction of its Major Projects Authority.¹⁷⁸ In the APS, mobile program management units could be utilised in the early stages of major government initiatives. They could also be brought in at critical junctures to address emerging risks that threaten the potential success of a program.

With extensive experience working on complex public and private sector programs, members of tiger teams would be able to share their collective knowledge of lessons learned. They could identify critical governance, resourcing and planning requirements in order to improve the likelihood of successful implementation. The teams would bring a critical outside perspective, as well as strong capability in program management.

Creating a register of professional expertise

Creating a centrally-managed register of qualified and experienced practitioners from across the APS would facilitate the establishment of such teams. The register should include the best program practitioners within the APS, bolstered by experts from the business sector. The existing register of Assurance Review teams administered by the Department of Finance could be built on for this purpose, but should also incorporate a new induction program to school practitioners in the tiger team methodology.¹⁷⁹ The APS needs to get behind such a whole-of-government approach in a concrete way. Departments need to be willing to release their best program managers for deployment at short notice, knowing that at some time their own agency may need similar assistance.

Deployment of a tiger team to a specific project would operate best at the authority and expense of the relevant agency head, though from time to time it may be necessary to have the Secretaries of PM&C and the Department of Finance, together with the Australian Public Service Commissioner, exert their influence on behalf of cross-agency collaboration. The technical term is 'knocking heads together'. Once deployed, the teams should not be seen as a panacea. They may face significant cultural difficulties gaining traction in the

organisation they join. They will probably need to wrestle with agency-specific practices and cultural norms. Success will depend on having a clear mandate and authority from within the agency, strong leadership and the ability to deliver high-quality projects and programs under intense financial, time and political pressures. It is a model which will only work when the teams have unambiguous support to get the job done.

The APS needs to build the breadth of experience of the Senior Executive Service

Here is a truth rarely admitted in the APS. Policy skills are generally viewed as a 'creative' or 'strategic' while implementation skills are often perceived as 'corporate' or 'operational.' This outdated assumption can result in a bias towards promoting the former at the expense of the latter. It is premised on a falsehood. Most leadership positions require a variety of expertise and experience across policy advice, program design, service delivery, regulatory impact, procurement practice or resource administration.¹⁸⁰ This is not an argument for more generalists. Senior leaders can be specialists in more than one area, and their professional background often continues to influence their managerial capacity. Regardless of background, the key to success is that leaders have the capability not only to provide strategic advice but to oversee its execution. They must understand that these skills are two sides of the same coin. They should have a depth of understanding in both.

Changing the recruitment criteria for senior executives would be a means of driving change over the medium term. Building on the 2013 legislative changes that broadened the roles of the SES,¹⁸¹ there would be benefit in reviewing the Integrated Leadership System that frames SES recruitment. Aspiring SES candidates should be expected to demonstrate a breadth of experience during the selection process, and be able to indicate the value that their technical skills and professional expertise bring to senior management.

Let me return briefly to my 2006 address to Department of Environment and Heritage staff. "Australian public servants tend to be very good at developing policies," I argued. "It is undoubtedly our strength. We need to complement that professional experience with an ability to implement programs." Nine years on I find myself delivering the same verdict.

CONCLUSIONS | Enhancing program management

D.13 The Australian Public Service Commission should work with industry associations to develop standards of proficiency for public sector project and program managers, with agencies committing to support these staff through career development opportunities, continued education and participation in professional communities of practice.

D.14 For all projects and programs, there needs to be a clear understanding about who accepts end-to-end responsibility for managing implementation, wields delegated authority and where accountability resides.

D.15 The APS should establish a 'tiger team' capacity by which service-wide expertise can be harnessed to assist Senior Responsible Officers in the management of high risk, large-scale projects.

D.16 Whilst acknowledging that different departments have different workforce needs, Senior Executive Service selection criteria should place greater emphasis on program leadership when considering a candidate's demonstrated breadth of experience.

E | Opening up the APS

PROBLEMS EXPOSED

The reviews conducted by Hanger, Hawke and Scales serve as a cautionary tale about what happens when the APS fails to seek and heed external perspectives. Hanger found that governments and public administrators are often not aware of the complex relationships within a particular industry. Without proper consultation and analysis, they are likely to misunderstand or underestimate the impact a policy will have on it.¹⁸² In the case of the HIP, a lack of subject matter expertise within departments resulted in advice being predicated on false assumptions. Indeed the perspective of industry was ignored. When “extensive advice was given, it was put to one side”.¹⁸³ In the case of the NBN, even when a decision was made to undertake a major redesign, the government failed to engage with industry early in the process.¹⁸⁴

In both the HIP and NBN, the perspectives of external parties were buried in process and bureaucratic structures. Experience often resided with those lacking positional authority or who were too intimidated (or busy) to raise their concerns with decision makers. When external experts were hired there was a tendency for them to be absorbed as ‘one of the team,’ blurring their independence and diminishing the value of their contribution.¹⁸⁵

Hanger and Hawke highlighted concerns with the governance and reporting frameworks established to assist decision-making in the HIP. Hanger found that roles were vague, not clearly articulated or misunderstood.¹⁸⁶ Critical decisions were taken within a collective body that enabled members to remain passive participants in the decision-making process. Hanger noted that debate or dissent within this group appeared to have been rare: it was easier to agree or remain silent than to contest issues.¹⁸⁷ Many of those involved now regret not being more forceful in their views at the time.

PROBLEMS ADDRESSED

Governments—Commonwealth, State and Territory and local—are increasingly commissioning the delivery of their services by community organisations and businesses. This brings with it the imperative for openness—to ideas, to people, to places and to different ways of getting things done. If outside organisations are simply contracted to deliver services as if they are public agencies, the benefits of outsourcing will be lost. Their views need to influence decisions on the programs they implement. When people who see the world differently work together constructively, their deliberations are more insightful. There is less acquiescence and more interrogation. As the advice of public servants becomes more contested, it has never been more critical that APS leaders (and the advisory bodies that support them) welcome the perspectives of delivery partners, community advocates and citizens—the latter both as ‘customers’ of government services and as contributors to political debate.

The role of a public service ‘outsider’ is to be a circuit breaker. They need to act as a provocateur, challenging accepted wisdom. To do so they require permission to put forward alternative views and must be given the authority to challenge the dominant mindset. They, in turn, will need to understand the emphasis on accountability in a public sector environment. Managing such a diverse team will not always be easy. For diversity to work, it requires people to act with humility, respecting and considering different perspectives. It takes a skilled leader to balance the benefits of diversity with the camaraderie of teamwork.

Mobility in and out of the APS will broaden perspectives and increase capability

Being a public servant is not necessarily the career for life it once was. The median length of service in the APS is now less than 10 years.¹⁸⁸ Increasingly, people both within and outside of the APS do not want to be tied to a single career, let alone a single organisation. This can deliver benefits to the APS. Public service leaders are recognising that they need

to promote the movement of people in and out of the APS.

Employee mobility has the potential to diversify the knowledge, skills and experience of employees. Agencies can benefit by recruiting staff who are interested in public administration but come to the sector with different skills and perspectives.¹⁹⁰ Cross-sector exchange and mobility programs can provide greater appreciation for each other’s distinctive operating environments. Outsiders can come to understand the inner workings of government and the far-reaching

consequences of public policy. Insiders can gain greater appreciation of the impact of public sector interventions, not least the burden imposed by regulatory ‘red tape’ and the consequences of learned dependency. It is for such reasons that greater mobility should be encouraged by aligning incentives, promoting exchange schemes and launching a flagship program that can provide an authoritative imprimatur for collaboration between the public, private and community sectors. Mobility is not a ‘silver bullet’. It can only deliver real and lasting benefits if it is supported by a culture that genuinely values external perspectives and acknowledges that a range of views and approaches improves both policy design and implementation.

Ian Watt AO

“We’ll also need to drive productivity by investing in our people...ensuring that our workplaces are open to ideas and routinely generate innovations both in policy work and in delivery systems—including our corporate systems, and building a culture that is up for transformational change—one which readily accepts that what may have seemed previously unthinkable is not only thinkable but achievable.” (December 2013).¹⁸⁹

Ian Watt was the Secretary of the Department of the Prime Minister and Cabinet from 2010 to 2014

Mobility programs have struggled

Over the last few decades, there have been various attempts to encourage mobility between business, the community sector and the public service. Mobility was identified in the 2010 *Ahead of the Game* report as a key mechanism for APS employees to expand their career experience.¹⁹¹ There are well-established exchange programs operating in a number of departments, including in the Treasury and the Department of Industry and Science. The APSC is working with the BCA and ANZSOG to trial secondments to BCA member companies. Despite these stratagems, many other cross-sectoral mobility initiatives have failed to prosper. In part, this is because insufficient corporate priority has been given to the movement of skilled employees as a means of building an organisation's range of perspectives and experience. Far more can still be done across the APS. Such moves can challenge existing ideas and perspectives about government processes and institutions. Many assumptions are unconscious. Few senior APS leaders have substantial career experience outside of the public sector.¹⁹² But if there is a firm underlying commitment to improvement, the resulting exchange of ideas will be positive.

Barriers to APS employees gaining external experience must be reduced

Opportunities for mobility need to be provided under formal arrangements. If not, the risk is that public servants who would benefit most from gaining greater breadth in their career will believe they have no other option but to resign from the APS, even if their original intention had been to return in a year or two. With resignation comes a number of potentially significant financial implications for the individual: lost superannuation contributions, reduced sick leave entitlements, and a resetting of the 'clock' on long service and maternity leave. The APS should not be seen as an allowance-driven workplace. However, it needs to be recognised that public service employees do wear significant financial risk when moving in and out of the APS. Often the framework of enterprise bargaining prevents them from renegotiating conditions on their return in the way that individuals from the private sector are able to do.

Glenys Beauchamp PSM

"I'd love us in the public service to get away from 'this is my position number and this is what it says I do.' I'd love to get a much more team-based, agile environment where people are chosen for skills and expertise. I think I've got my challenges cut out for me there."
(March 2015)¹⁹³

Glenys Beauchamp is the Secretary of the Department of Industry and Science

A simple solution is to utilise the existing leave-without-pay provisions more widely. By allowing employees greater access to leave-without-pay for a couple of years, they can take up opportunities for an approved purpose outside of the APS, yet remain connected to their home agency and maintain their conditions. Why is such an approach not more widely used? The problem is in part because of cultural expectations: someone wishing to have time out of the APS may not seem to be a committed public servant. This resistance to letting public servants leave temporarily is no doubt accentuated at present by the fear of losing talent at a time when the APS is contracting.

Secretaries should remove any barriers to mobility that exist in their departments' policies and practices. They should manage leave liability within their departments through centrally-funded corporate overheads for approved work experience purposes where they are persuaded that outside experience will benefit the APS. Better still, Secretaries should actively encourage staff to participate in external activities in other sectors that do not raise conflicts of interest with the role they perform in the APS. This could take the form of supporting staff to serve on external boards or participate in a research project.¹⁹⁴ There are still few departments that have negotiated secondment arrangements with partner organisations in the sectors in which they operate. This is a missed opportunity to strengthen relationships, as well as to build staff capability.

New initiatives need to draw talent from outside the APS

It can be even harder to persuade those employed outside the APS to take up an opportunity in Canberra. Senior executives of private sector businesses are generally paid significantly more than their public sector counterparts. For a not-for-profit sector organisation it can often be challenging to lose a key staff member even for a few months. If the rhetoric of cross-sectoral mobility is to be turned into reality, it may well require active support and encouragement at the highest level. Staff who want to move between the public, private and community sectors need to be assured that their ambitions are seen not only as laudable but are regarded as a means by which to contribute to the creation of public value. This tone needs to be set from the top. In some respects we need different narratives about what constitutes a 'successful' public sector career. Perhaps we need to talk in terms of a career in the 'public purpose' sector, only part of which might be spent in the formal structures and institutions of the public sector itself.¹⁹⁵

This helps to explain why leadership-endorsed mobility programs are becoming increasingly significant around the world. The United States launched the Presidential Innovation Fellowship in 2012. The program is already highly competitive. The nation's best and brightest technological innovators (developers, designers, entrepreneurs, product managers and 'data geeks') are paired with public servants for 12 months to tackle some of America's biggest challenges. Although Fellows receive a full-time salary, it is prestige and public purpose that are the major attractions. The President seeks to harness new ideas "to remake our government"—to save lives, use taxpayer money wisely and build a culture of administrative entrepreneurship. As one Fellow blogged: "You want a participatory democracy? Here's your chance. Becoming a Fellow is a commitment to work as hard as you can on behalf of the American people".¹⁹⁶ The United Kingdom's Civil Service has a similar Whitehall Internship Programme.¹⁹⁷ Supported by highly competitive and transparent processes, the British and American initiatives attract high-quality candidates to spend time in public administration. Australia could benefit from such initiatives, at an APS-wide level.

A prestigious Public Service Fellowship should be established. Ideally the Fellowship should be directly associated with the status of the Prime Minister. Ten talented senior executives from the business, community or academic sectors would be selected each year by a Public

Service Advisory Committee (discussed below). They would work on a range of significant initiatives for the Australian Government. The Fellows would be embedded as members of the team, work with senior public servants and experience public administration first-hand. It is likely that larger Australian companies would recognise the value of the program and would continue to be responsible for a Fellow's salary and other entitlements, although a bursary could be provided by the Government to offset temporary relocation costs. Where salary requirements would be a barrier to participation, for example in the community or small-to-medium enterprise sectors, further financial support could be made available subject to a supporting business case. It can be expected that in the future a business or community leader who receives the 'Prime Minister's Fellowship' will look on the achievement with pride—and, by participating, will help open up the APS to new and challenging ideas.

A scholarship should also be established for ten exceptional leaders from the APS to enable them to undertake an experience-based assignment in a non-government sector for up to 12 months. Similar to the Churchill Fellowship, candidates would be expected to seek out their own opportunity in a business, community or research organisation and make the case for why it would benefit the public sector.¹⁹⁸ Candidates should be selected by a cross-sector advisory panel. Agencies would generally be expected to provide the continued salary and entitlements for successful candidates, although additional financial support might be provided to cover any necessary travel and temporary relocation costs. Experience in the private sector has highlighted that the benefits of such transfers are more likely to be harnessed when they are accompanied by efforts to ensure individuals maintain links to their 'home' organisation whilst away, and then are adequately re-oriented and supported upon their return, including with career planning.¹⁹⁹

**External expertise
should be brought in for
specific projects**

The Australian Government has a value proposition that is compelling—the ability to contribute to society and to serve in the national interest. Of course, Australians generate public value through many avenues: volunteering their time to not-for-profit activities, joining the Army Reserve or undertaking pro-bono work for causes with which they identify. Social mission often has great public benefit.

How might the APS harness and encourage this enthusiasm for contributing to the public good? There needs to be a focus on creating alternative pathways where individuals in the private and community sectors can quickly and easily contribute to the work of the public service. Whether launching an innovative online service, creating new public markets or initiating large-scale transformational change, the public service needs to attract outsiders with the knowledge, experience and enthusiasm to contribute to project teams.

Taking a Hollywood approach to the APS

Outsiders can supplement the talent and expertise within the APS. But they should not necessarily be expected to commit themselves to long engagements. Rather in the manner that Hollywood studios undertake film production, the APS could offer people with professional skills the chance to come together briefly as a team, perhaps in a virtual environment, to work on a project uniquely suited to their collective talents and which appeals to their creative impulse. This is not pie-in-the-sky. It may well be that our whole economy is in the midst of a grand shift towards the Hollywood model. Traditional careers are disappearing. More of us will see our work lives structured around short-term, project-based teams rather than long-term, open-ended jobs.²⁰⁰ The administrative and structural facilities required already exist. The main change needed is cultural.

The nature of public service lends itself to such an adaptable approach. Imagine Westminster shaped by Hollywood. It's easy if you try. A project is identified by government (home insulation, perhaps); a group of experts is assembled; they work together for just as long as it is needed to complete its design or oversight its initial implementation; and then the group disbands. Pulling together these 'virtuoso teams' could prove the difference between real success and mediocre outcomes.²⁰²

Michael Thawley AO

"There are not enough people in government who understand how business works, what is required for businesses to become successful, and how rules and regulations get in the way and can steer businesses into ways that prevent productivity." (April 2015)²⁰¹

Michael Thawley is the Secretary of the Department of the Prime Minister and Cabinet

Some individuals may even wish to volunteer their time, attracted by a sense of public purpose. For those who dismiss such notions as high-minded nonsense, take a look at the National Library's Trove site.²⁰³ There you will find thousands of individuals who, for no more than online recognition, make millions of text corrections to the Library's collection of digitised newspapers. They see it as a public service. There are many government social, cultural and environmental programs that could harness equally successfully the enthusiasm of citizens.

The fact is that there are many ways that innovation can be brought into the APS. If an entrepreneur develops a leading edge online tool, government should harness that expertise within the public sector when it wants to build its next online help centre. If a State government has significant success in rolling out a complex new program, star performers from that project could be recruited temporarily to contribute to a similar Commonwealth initiative. If individuals have created an exciting online app, they could be persuaded to direct their technological prowess to a similar government project. Occasionally people will be keen to participate on an exciting project for little more than a sense of public purpose. More often people will want to be paid market price for the talent and skills they bring. The key is to be flexible in attracting outside talent into the APS for a short period to work on the design or management of a specific project—and to use the sense of national significance as the lure.

This is not to imply that purely because someone is from outside the public sector they are better. In fact, ‘outsiders’ may flounder when put in the complex environment of public accountability, competing objectives and ambiguous authority. Conversely, many public servants could blossom as ‘intrapreneurs’ if given a chance to work with greater autonomy on the design or execution of new policies. When a person’s expertise and experience is valued and they are placed in a position where they are able to influence, they can contribute to the creation of major public projects or programs, whether or not they are career public servants.

APS Program Advisory Committees should be established

Those who have senior decision-making responsibility for the design and delivery of public programs have very demanding roles. They are typically chosen on the basis of their knowledge of the program area and their management skills. They cannot, however, be expected to be an expert on everything. SROs will often need to draw upon a broad set of competencies, skills and experience if they are to address successfully the complex issues posed by large programs. Diversity of knowledge can contribute to more effective program management, a better understanding of the risk environment and achieving a stronger alignment of policy to outcomes.

One way to achieve that goal is to establish ‘advisory boards’, as proposed by Hanger.²⁰⁵ Such boards could provide an environment that would allow preconceptions and assumptions to be challenged and assist the SRO to make better decisions. It would also be beneficial if the Department’s CRO participated as a member of the advisory board when a major departmental initiative was planned. This is not a call for a proliferation of new boards or committees: rather, it is recommended that a diversity of perspectives should be incorporated into the program governance structures that already exist within the APS. The harnessing of private or community sector experience needs to become common practice, particularly at the point where policy is translated into implementation.

John Lloyd PSM

“We’ve got to be looking not just at what public sectors are doing, but what we can drag out of the private sector... In certain areas I think the private sector’s leading companies are at the leading edge of implementing change, of how they’re implementing IT, of their personnel practices, and there’s so much we can learn from that.” (March 2015)²⁰⁴

John Lloyd is the Australian Public Service Commissioner

If we look to the example of the HIP, it is clear that there would have been enormous value in having someone at the table with practical knowledge of the hazards of working in the insulation industry—a person able to draw attention to issues not fully understood by policy makers. The HIP PCG needed people who had a depth of experience in the industry. In their absence, the PCG decided to relax safety training requirements.²⁰⁶

Membership needs to embrace a diversity of perspectives

It is challenging to put together a committee that reflects a balanced representation of the interests involved, but the objective needs to be pursued with greater rigour. When considering the membership of such bodies the governance roles must be clearly understood and articulated.

External appointees should have a solid foundation of practical experience that is more comprehensive than that available within the APS. They must be encouraged to speak their minds. Their views should be listened to and conveyed to the minister. For their part, external committee members will need to understand the appropriate constraints of confidentiality and accountability within which public policy is designed and implemented.

An advisory board would not take over the managerial responsibility of the decision-maker. Rather, its role would be to proffer sagacity and common sense. Some critics point to difficulties in involving outside parties who may have something to gain by being involved in these fora: sometimes they can be portrayed as little more than rent-seekers pleading special interests. Such concerns are misplaced. Probity issues can usually be addressed by foresight and due diligence, and a skilled public servant is well equipped to appreciate the difference between lobbying and advice. The APS must also be mindful not to fall back on 'friendly faces'. Dissent should be respected, and valued as an input to policy design and decision-making. When advice is needed on major projects, the APS should look beyond the 'usual suspects'. Industry associations and unions may well provide good members of an advisory group, but the greater percipience often comes from individual companies, community organisations or people with first-hand experience. Members should be sought for their particular experience rather than selected as organisational representatives.

Successive Australian Governments have underinvested in public service reform. Efficiency dividends help to reduce costs, but on their own they do not enhance productivity. Public servants themselves have often sought to stay ahead of the game, but their blueprints for reform tend to look backwards and inwards in the pursuit of enhanced capability. When major projects fail, they often do so not just because of poor processes but because of a lack of imagination. We need not wait for the next crisis. Public sector reform should be conceived as a continuous process, driven from within but supported by outside expertise. As has been recognised in the UK, "small, mixed teams combining people with experience, skills and connections outside Whitehall, as well as career public servants, can strengthen the [Civil Service] reform design, while maintaining focus, energy and momentum".²⁰⁷

A whole-of-APS reform agenda should drive a more open and collaborative APS

A Prime Minister's Public Service Advisory Committee could be charged with driving this approach. It should itself embrace membership from the private and community sectors. There exists a profound appetite amongst many public servants for change. They need to be encouraged to go further. Exciting things are already happening in the APS but their transformative potential often goes unrecognised. Too often the most interesting innovation remains at the margin of public administration. What is needed is authoritative leadership. Australia can learn from other nations like Canada and New

Zealand, which have established advisory bodies to drive significant reforms over the past five years, helping to ensure that their public services are ready for emerging challenges. I have had the privilege in recent years to work on public sector reform agendas in New South Wales and Queensland and have seen first-hand the positive changes that can be implemented if there is the will. Equally important, I have witnessed how perspectives from outside the public sector can add significant value to the processes of reform. The Commonwealth should follow suit.

A Prime Minister's Advisory Committee could be charged with driving reform

The Public Service Advisory Committee should report to the Prime Minister, through the Minister Assisting the Prime Minister for the Public Service. Its terms of reference should be to assist the Australian Public Service Commissioner to drive a more open, collaborative and outward-looking APS. Its members should help identify innovative approaches and imagine new ways of developing or delivering policy—measures that can enhance public sector productivity and raise public service standards. The Committee would not require a large administrative secretariat. Its deliberations should be integrated into the existing work program of the APSC. However, it should have the capacity to generate its own agenda. Membership of the Public Service Advisory Committee must be carefully chosen to bring together the right mix of pre-eminent leaders, who have had diverse experience outside and inside government, but also share a real commitment to enhancing Australian governance.

CONCLUSIONS | Opening up the APS

E.17 Secretaries should support their staff to undertake career development opportunities outside the APS in order to gain beneficial experience.

E.18 Building on existing departmental initiatives, an Australian Public Service Scholarship should be established that provides financial support for ten APS leaders each year to undertake an important project in the business or community sector for up to 12 months.

E.19 A highly prestigious Public Sector Fellowship should be established to provide financial support each year for ten exceptional leaders from the business, community and academic sectors to contribute to significant initiatives in the APS for up to 12 months.

E.20 For high priority large-scale projects, departments should actively source specific talent from outside the APS on a temporary basis to provide a wide range of relevant skills, experience and entrepreneurial energy.

E.21 Program advisory groups should be established within departments that include representation drawn from outside the APS in order to capture a broader diversity of perspectives and knowledge.

E.22 A Prime Minister's Public Service Advisory Committee should be established that includes leaders from business and community organisations, to support the Australian Public Service Commissioner build a more open, collaborative and outward-looking public service.

F | Embracing Adaptive Government

PROBLEMS EXPOSED

The Royal Commission into the HIP found that “the tension between the stimulus objective of the policy, with its concomitant need for expedition, and the energy efficiency objectives of the policy ... caused a number of decisions to be made ... which unnecessarily exposed workers, particularly inexperienced ones, to an unacceptably high risk of injury or death”.²⁰⁸

Given the political pressure for speed, which curtailed the time available for program design, the APS should have been aware that it would have to learn lessons along the way. Hanger drew attention to the fact that information from the roll-out of the HIP was not used to inform ongoing management of emerging risks nor to act on them as they manifested.²⁰⁹ There was no testing of whether the right people and skills were available to deliver the project.²¹⁰ No attempt was made to recruit experienced individuals to address the deficiencies.²¹¹

With respect to the NBN, Scales reflected that the Government leapt to creating a new ‘start-up’ Government Business Enterprise “that was completely untested and ill-prepared to deliver one of the largest, most complex infrastructure projects in Australian history within a very tight timeframe”.²¹² Government did not think that it might need to adapt as it moved into a new and untested area. There was too little willingness to try things out at a small scale, to experiment and evaluate and to respond flexibly and expeditiously to emerging problems.

In the HIP public servants did not act in a facilitative manner. They failed to harness outside experience. Indeed, Hanger noted a tendency for public servants to isolate themselves from external sources of advice. Express instructions were given not to consult industry.²¹³ There was also an unwillingness to engage with counterparts in other jurisdictions: “Curiously, and inexplicably, none of the ... officers working on the HIP appear to have liaised with their New Zealand counterparts about their respective energy efficiency programs involving home insulation to share information, experience or alert each other to potential problems”.²¹⁴ This closed approach also extended to the fundamental issue of properly investigating how States and Territories understood their work health and safety responsibilities.²¹⁵

In a similar vein, the review of the BER found that when school stakeholders were not consulted or authorised to make decisions, schools were placed at greater risk of being left with more expensive buildings that were not fit for purpose.²¹⁶ The stark contrasts between the results achieved in different school systems and states revealed how old-fashioned command-and-control public administration (and both Commonwealth and some state governments were guilty of this in their haste to get the program going) can ultimately undermine the delivery of quality outcomes.

PROBLEMS ADDRESSED

A one-size-fits-all approach does not work for most complex problems

The traditional path to developing and delivering government policy is well-trod. It involves developing a Cabinet submission to address a perceived problem, gaining Cabinet approval, having the APS design the program, and using public servants or contractors to roll it out across the nation. There is still a place for such tried and tested methods. They can work effectively for policies that deploy at an industrial scale, involve high numbers of transactions and require high levels of accuracy (for example, collecting taxes or making benefits payments). In other areas of service delivery, a one-size-fits-all approach to delivering a program across the whole of Australia will increase the risks of implementation going wrong. In most instances this will reduce the value-for-money that citizens derive from the public funds expended. Inflexibility reduces choice for program clients and diminishes contestability amongst providers. It is often far better to allow programs to be tailored to the needs of particular individuals or communities.

Public services are becoming increasingly contestable. But while it is now standard practice for a range of providers to be contracted to deliver programs, governments still do not face the discipline of full competition in the marketplace. This makes it critical that they find other ways to learn from the experiences of businesses and community organisations. Too often, governments focus their resources on defending a well-established but outdated approach. Doing things differently is often not considered until things go badly wrong and large sums of money have been wasted.

Pockets of the APS are already doing things differently

But, a quiet revolution is already underway. Pockets of the APS are experimenting with new ways of delivering government business. A consistent theme in most of these projects is the desire to start small and learn from both success and failure. They involve testing a range of actions, evaluating the results, and then shifting attention and resources towards what works best. Programs move to full scale only when the lessons of demonstration projects have been incorporated. Public servants may deliver the services directly or work with third-party delivery agents, who are provided with greater autonomy in how they pursue agreed performance-based outcomes. Success is achieved through iteration. In short, these areas of the APS are adaptive: they learn and adapt through the process of doing.

Positive findings are emerging from using trial sites to explore different ways of implementing the National Disability Insurance

Paul Shetler

“You can’t do it all at once otherwise it will be a train wreck... We’re going to get there by doing small things, deliver them very quickly and then iterating them, changing them, improving them, making sure they actually do meet user needs and that we continue to do so as we move along” (July 2015).²¹⁷

Paul Shetler is the CEO of the Digital Transformation Office

Scheme; from place-based, community-driven initiatives in early childhood; from providing longer-term more flexible contracts to indigenous organisations to deliver services in remote areas; and from promoting consumer-directed services to older Australians who require home care.²¹⁸ Lessons also come from some state governments, where this gradual, patient, exploratory approach has reaped benefits in helping families at risk of breakdown.²¹⁹ There is a palpable sense of change.

Be flexible, experiment, work with others, and learn as you go

There are four elements to adaptive government: being flexible (paying by outcomes and measuring performance), being experimental (starting early and failing quickly), being facilitative (working with others rather than in isolation), and being agile (learning as you go). Applied concurrently, these elements have the capacity to improve and

strengthen the way government designs and delivers its policies, programs and services. I have discussed these in turn below, contrasting traditional practice with adaptive practice, and drawing on examples from Australia and overseas.

1. BE FLEXIBLE: PAY BY OUTCOMES, MEASURE PERFORMANCE	
Traditional government	Adaptive government
• Use only public servants to design the program and the administrative guidelines • Allow the mechanics of program delivery to take priority over consideration of program outcomes • Measure success on the basis of process compliance • Roll out the program nationally (one-size-fits-all)	✓ Employ collaborative processes to identify and negotiate desired government outcomes with stakeholders ✓ Set the policy objective of the program at an early stage ✓ Be willing to experiment with delivery models ✓ Allow providers (public service or third-party) more flexibility in their approach to delivery ✓ Calibrate payment on the basis of agreed outcomes ✓ Focus on performance

The starting point for any new project should be developing a deep understanding of the objectives pursued by government. The opening question should be “what will success look like?”. It is necessary to identify the results that are sought, and agree (in collaboration with potential providers) the outcomes against which performance will be measured. The Enhanced Commonwealth Performance Framework, introduced under the *PGPA Act* from 1 July 2015, emphasises the importance of Commonwealth entities reporting on outcomes and impacts in their corporate plans and annual reports. The new corporate planning requirements encourage agencies to identify what success looks like at the beginning of the

annual business cycle, and to explain how they will measure it over the short, medium and long term.²²⁰

The APS is still a long way from being able to do this consistently. Too often public servants are reduced to monitoring processes, ticking off programs against a series of outputs, acquitting payments or meeting contractual conditions. Meanwhile the ambitious goals of government and interests of the citizen become lost in the mechanics of grant applications, contracts, guidelines and reporting rules. There remains too much focus on process (how many clients have been seen) and outputs (how many services or payments have been delivered) rather than on outcomes (how has welfare dependence been reduced, employment increased or health and well-being improved). Unfortunately, the innovative impulse of delivery partners is too often stymied because APS contract managers restrain unnecessarily the approach they can take. Contracting is transactional, with management focusing its attention on legal and procedural compliance. In contrast, commissioning of service delivery undertaken in a flexible way can be transformational: management can direct its attention to performance.

Payment by results is one way to be flexible while improving performance

One way to promote more flexibility in program delivery is to shift to Payments by Results (PbR). It should not be underestimated just how challenging this can be. PbR requires pre-agreed measures to be established. Payments are contingent on the verification of

results, some of which may become apparent only over the medium term. Counterfactual approaches are required, allowing estimates to be made of what results would have occurred over time in the absence of an intervention. The better the quality of the performance metrics, the more discretion that can be allowed to front-line public servants or contracted providers in how to deliver them.

Of course, outcomes need to be set to discourage gaming. Experience warns us that simple targets often result in behaviour that weakens the underlying purpose of the program. Incentivised performance measures, in themselves a useful feature, can sometimes distort provider behaviours. Nor am I advocating a laissez-faire approach, allowing contractors to claim that virtuous ends justify dubious means. Nevertheless, the benefits of applying a PbR approach methodically more than outweigh the up-front costs invested in its development. Payments can be made on the basis of the benefits that are being delivered. Through upfront agreement on outcomes, and the removal of restrictive controls, public sector entrepreneurship can be liberated.

The flexibility engendered by PbR approaches can go much further. An example that I have been intimately involved with is the introduction in Australia of Social Benefit Bonds (in the UK, Social Impact Bonds). They represent a financial instrument that pays returns to investors based on achieving agreed public outcomes. This approach has been trialled in NSW to deliver better results for families at risk of breakdown.²²¹ The programs to reduce levels of out-of-home care have not been designed by public servants but by innovative

community organisations (UnitingCare and The Benevolent Society). Performance-based outcomes have been negotiated, and funding raised from the private sector. The providers carry the risk but they are given the freedom to deliver the program as they wish. Such public-community-private partnerships (impact investing) can have much wider application. The Joint Standing Committee on Foreign Affairs, Defence and Trade has recently recommended assessment of Development Impact Bonds as a means to improve the effectiveness with which overseas aid is delivered.²²²

2. BE EXPERIMENTAL: START EARLY, TEST WHAT WORKS, FAIL QUICKLY

Traditional government	Adaptive government
• Implement defensive risk management • Blame and punish for small failures • Bet everything on one large-scale project • Describe interventions as 'trials' when there is no intent to move to full scale • Have little regard for front-line experience	✓ Embrace a positive risk culture ✓ Devolve decision-making to those closest to the risks ✓ Ensure that front-line experience can influence policy design ✓ Undertake controlled trials of government policy (pilots or demonstrations) ✓ Change approach to adapt to circumstances ✓ Learn from mistakes ✓ License innovation within clear boundaries ✓ Move to scale progressively

The biggest impediment to greater use of experiments in the delivery of public services is risk aversion. For this reason the adoption of a positive risk culture is a critical first step on the path to more experimental approaches. A positive risk culture, as has already been discussed, involves public servants accepting responsibility for risk at all levels of the organisation, and allowing risk management and decision-making to be devolved to those who are close to the action.

It is useful on occasion not to 'think big'. For initiatives that are entering relatively new areas of government policy, perhaps we should be willing to countenance giving public sector managers the licence to 'start fast, test first, fail small'. After all, why can't governments on occasion act more like businesses and be able to prototype and trial delivery models and learn from these experiments before proceeding to scale?²²³ This is not about wasting public money on administrative fads or bureaucratic fopperies. Rather, it is about testing the most efficient and effective ways of delivering on the ambitions of government. Establishing clear boundaries from the top down as to what risks can be taken, and in what circumstances, will allow public servants to establish the best approach.

Trialling before moving to full scale does not mean delayed implementation. I have no desire to sign up the APS to the 'Slow Movement', nor, conversely, to promulgate haste. The key to good public administration is to do everything at the right speed. It is often faster to deploy a single prototype from which to learn, than to design and deliver a full-scale program that is likely to be beset with problems from day one. Better still, demonstrations allow public servants to compare the efficacies of different approaches. On occasion trials may suggest a need for quite different methods of pursuing government policy, but in most instances they will allow public servants to identify a plethora of incremental improvements that, cumulatively, can drive significant efficiency gains.

Behavioural insights can extend the experimental approach to existing programs

Trials should not be limited to new programs. Opportunities are also available to improve large, ongoing programs. For example, the Behavioural Insights Team, formerly based within the UK Cabinet Office and now a company operating at arm's length from government, has carried out extensive randomised 'nudge' trials to test end-users' responses to a range of prompts. This testing was undertaken at low cost and quickly showed which approaches worked best. Subsequently, the UK Government was able to implement successful policies that achieved improved outcomes (such as increasing organ donation by 100,000 people in a year, and lifting tax payment rates by 5 per cent)²²⁴ A similar White House Social and Behavioral Science Team has been established to help the United States Government identify approaches that harness public behaviours to improve effectiveness.²²⁵

Understanding the psychology of market interventions is just as important as understanding the mechanics. The most elegant policy solutions will fail if they do not account for how humans behave. As Allan Hawke noted in his review of the HIP, the program design provided little incentive for householders to think about the quality or performance of insulation installers.²²⁶ This goes to a more general point: there should be an expectation that public servants, when designing policy and programs, have made themselves aware of what has been done by others, what has worked well, and what has not. Public servants should take the time to 'stop and look around', not just at the operation of markets, but at the behaviour of people.

The good news is that this focus on the social, cognitive and emotional behaviour of individuals and institutions, often explored through testing different approaches, is now being taken up in Australia. For example, a Behavioural Insights Unit has been established in the NSW Department of the Premier and Cabinet. It collects data from the front-line and then undertakes randomised controlled trials, incorporating results into the design of government interventions. A small but growing number of Australian Government agencies is also beginning to apply or trial the use of behavioural insights techniques.²²⁷ Greater investment in these approaches, both inside government and in think-tanks, can only help spur the evolution of richer insights. There would be considerable value in the APS fully engaging with the Behavioural Insights Community of Practice that has been established in Australia

and, better still, creating a similar group of its own. It would act as a catalyst for experimentation.

Learn from the private sector's purpose-driven experimentation approach

The APS can learn much from Australia's large publicly-listed companies about experimentation. By virtue of their size, these companies have many of the characteristics of bureaucracies. They are generally demarcated horizontally by function (into subsidiaries or business units) and vertically by hierarchical reporting lines. Committee structures dominate the processes of decision-making. From the outside—and as I now know, from the inside—they look very similar to large departments of state.

The difference is market competition. Although they enjoy the considerable power of incumbency, each company recognises that its continued success depends on addressing the constant threat of disruptive innovation. Challengers, from large global multinationals to small entrepreneurial start-ups, constantly improve the price, quality or consumer attractiveness of the goods or services offered for sale and the manner in which they are produced and distributed. Organisational sclerosis means certain decline. Sometimes companies die slowly by a thousand competitive cuts; occasionally they collapse precipitously in the face of dramatic shifts in consumer preferences. Loss of market share, declining profit and susceptibility to takeover are ever-present dangers. Many of the great companies of the past, household names for a generation or more, no longer exist.

Each company knows that it must find ways to maintain and grow its shareholder value. Each, led by a CEO and executive management and governed by a chair and board of non-executive directors, will develop its own strategies. There is a discernible pattern of good practice, however, from which public service agencies can learn.

A forward-looking company will seek to do more than react speedily to emerging threats. It will set its sights on identifying untapped opportunities that can provide it with a competitive edge by which to deliver sustainable shareholder return (in contrast, the driving force for a government agency will be to deliver public outcomes better). It will often trial different approaches to demonstrate which is likely to be more effective. Some initiatives will then be deployed at scale, others extended more broadly, and others shut down or sent back to the drawing board for further work. The core systems of the company will be adapted to ensure that they can support the new approaches or products. Often that involves motivating intermediaries that stand between the company and its ultimate customer. Not all initiatives will prove successful: behavioural psychology is complex, and consumers will often respond in unexpectedly negative ways to change. Some interventions, by contrast, quickly deliver tangible improvements. A well-managed company learns from both. It is a form of disciplined entrepreneurship. It is experimentation, driven by purpose. The APS should embrace such approaches.

3. BE FACILITATIVE: WORK WITH OTHERS

Traditional government	Adaptive government
• Develop policy in relative isolation • Consult on an ad-hoc basis, often after key decisions have already been made • Prescribe in contracts how outsourced providers are to undertake their work • Expect that the final shape of policy will look like the original proposal with only a few tweaks around the margins • Use digital tools solely as a means of communicating or transacting simple business • Encourage service recipients to learn helplessness by treating them like dependents	✓ Make it easier for outsiders to become part of project teams on a temporary short-term basis ✓ Seek alliances with organisations already in the field ✓ Encourage front-line experience to influence project design ✓ Involve potential providers in the co-production of policy ✓ Make full use of the internet to enhance digital democracy and citizen engagement

The APS will continue to sit at the centre of public administration. Its senior leaders have extensive access to ministers' offices. They participate in the confidential meetings that discuss new policies. Relations between the government and most of the lobbyist or advocacy bodies with which it meets, and the multifarious organisations which it regulates or influences, are to a large extent conducted through government agencies. Public servants, directly or by contract, deliver government services to the public. They are the means by which the entitlements and obligations of citizens are communicated.

What needs to change is the ethos that is brought to that situation of positional authority. Public servants cannot seek to be controllers. Indeed, the *PGPA Act* establishes a duty in law for officials to co-operate with others to achieve common objectives.²²⁸ Adaptive government depends upon them exercising their responsibility on the basis of collaboration and partnership, working cooperatively across sectors to inform and deliver a government's agenda. They need to see themselves as the stewards of democratic processes and good governance. The leadership they provide needs to be facilitative in nature. Their performance should be assessed on their ability to effectively harness ideas and capabilities from across and outside of government, not on their ability to control and orchestrate every minor activity.

There are good examples of being facilitative in the APS

Let me provide two instances of changes already underway. Both call for public servants to apply high-order facilitative skills. The first example builds on almost two decades of experience in brokering the delivery of Australian Government labour market programs on a competitive basis to

a range of public, private and community providers. As Secretary of the Education Department, Science and Training in the second half of the 1990s, I remember well the introduction of the Job Network (now *jobactive*) and the exciting prospects that it held. I envisaged a public economy in which job seekers would be able to select the organisation that they wished to deliver the training or labour market support that government funded.

That ambition has been only half-fulfilled. The goal seemed so straightforward—setting an outcome (how many jobseekers were placed into work for 13 or 26 weeks) and allowing contracted providers to decide on their own approach to achieving it. Unfortunately, the process has become burdened by tomes of prescriptive guidelines. The organisations have been treated as if they were mini-government agencies and expected to do things in very similar ways.

It does not have to be like this. The Department of Employment is seeking to modify its approach. By collaborating with potential providers on policy design and execution, and paying on the basis of performance-based results, a greater spirit of partnership can be created. Providers can be given more flexibility. Of course, it will still be important for public servants to ensure that providers behave honestly and ethically. Between the co-production of policy design and careful monitoring of outcomes, however, perhaps the best role of the APS is to stand aside and let the organisations commissioned to deliver the services get on with the job.

The second example of working with others in an adaptive way is to go beyond ‘customer service’ and allow those who receive services to wield more control. The emerging commitment to consumer-directed care allows those entitled to government services to manage a care budget and make their own decisions. From July 2015 this year, for example, Home Care Packages for the elderly provide individuals with the option of tailoring care to their particular needs, with the assistance of service providers.²³⁰ For public servants this will involve a much greater need to work not only with a range of contracted providers but with the individual citizens who will access their services.

Martin Parkinson PSM

“There are expectations on us to engage differently with business and the broader community—to better understand and incorporate their perspectives into our policy analysis and development.”
(March 2014)²²⁹

Martin Parkinson was the Secretary of the Treasury from 2011 to 2014

Such initiatives offer great opportunity for government to actively encourage consumer or community choice and then to learn from the preferences that are revealed. This information can improve the design of public services—just as any company in a new market carefully monitors and reacts to how its customers respond to its products. Actively supporting community organisations or individuals to be engaged in service delivery also helps build their skills, resources and social capital, allowing them to independently generate beneficial public outcomes.

Business has been quick to harness the power of digital platforms to use their customers' views to shape their product offerings. Governments in Australia still lag behind. Done well, the techniques of digital democracy can help to drive citizen engagement in ways that can help shape government policies. Of course, the technology is just a tool. Real power lies in the willingness of public servants to employ a range of facilitated deliberative processes to involve citizens in reframing questions and suggesting answers. Simply signing up to social media will not change things unless the APS is ready to take on lessons from outside the public sector.

4. BE AGILE: LEARN AS YOU GO	
Traditional government	Adaptive government
• Retain information • Dismiss opportunities to learn from the experience of others • Leave evaluation of 'what works' until the end • Work within the silos of bureaucratic demarcation • Base program design on what has been done in the past	✓ Share information about good practice—and lessons learnt ✓ Create stages/gates to allow programs to be modified on the basis of ongoing monitoring and evaluation ✓ Learn continuously from doing ✓ Encourage people to share mistakes and 'near misses' that can inform program design ✓ Fully embrace whole-of-government cooperation ✓ Imagine new ways of doing things

Three things can stymie effective sharing of lessons across government: the functional demarcations of bureaucratic structure; an unwillingness or inability to discuss failure; and the over-use of confidentiality and security provisions as an excuse not to consult broadly. The effect on APS capability is clear. Less obvious is the manner in which discussions with business and community organisations and the wider public are impoverished. It lessens the opportunity to hear from those impacted by government programs, and reduces the ability to evaluate the impact of government investment. This is not just an Australian Government problem. In spite of the occasional nod to the potential benefits of co-operative federalism, Australian jurisdictions have historically been poor at sharing information about different policy approaches between levels of government.²³¹

Agility requires a focus on learning and sharing information

For agencies to become learning organisations they must transition from a 'need-to-know' approach to information to a 'need-to-share' philosophy. Of course, standards around security, confidentiality and privacy cannot be compromised. But the APS needs to find ways to improve how it shares data and experience from early lessons, rather than relying on post-implementation audits and risking large-scale failures. In 2008 the *Venturous Australia*

review, conducted by Terry Cutler, recommended that “to the maximum extent practicable, information, research and content funded by Australian governments... should be made freely available over the internet as part of the global public commons”.²³² Since 2013, the Australian Government has required the results of research funded through the Australian Research Council to be openly available to the broadest possible audience.²³³ Perhaps this requirement could be extended to all government funding, similar to many areas of public funding in the US.²³⁴ Perhaps too, we might learn from the UK Government, which regularly creates opportunities to assess and publish the results of different approaches to government delivery.²³⁵ Staying agile, continuously learning and adapting requires a change of mindset.

Contracting out service delivery has not delivered on the promise of flexibility and choice. The failure speaks to a larger issue. The contestability agenda is too often conceived narrowly as a drive to outsource service delivery to the private sector or communities at the lowest cost (which is how value-for-money is all too often perceived). This misses the larger purpose of identifying the most effective and efficient ways to achieve a government's desired outcomes. Contestability should introduce credible competition between implementation options based on benchmarking and market testing. A diversity of approaches should be actively encouraged so that delivery is undertaken by a variety of providers in different ways. Improvement can be informed by monitoring the experiences and evaluating the outcomes of those ‘doing the doing’.²³⁷ Just as businesses learn by scrutinising what works for their competitors, so too can the APS learn from studying the providers of public services. It can acquire knowledge of good practice and innovative approaches by assessing their performance. The key is to focus on results, learn from experience and to stay agile in the search for innovation.

**Adaptive government
sometimes means
starting small**

collaborate widely, and learn as you go (including from the experience of others). Adaptive government can take many shapes. There are innumerable ways in which the public service can become more agile. As with any new approach, changes will be needed to turn the adaptive ethos into action. Some will require a shift in entrenched practices, attitudes or behaviours.

Administrative structures and workplace systems often hinder the capability of APS agencies but it is cultural inertia that acts as a barrier to creativity. Induction programs generally focus

The best way to discover the value of adaptive government is to do it. Pay on outcomes, embrace experimentation, start early and (if things go wrong) fail quickly,

Marie Johnson

*“You can say government needs to be more cautious and that’s true, but it’s not an excuse for failing to be more agile and operate in a different way... You have to ask ‘what would government services look like if Apple or Google delivered them?’ and you get a different answer to what we see in the public service.” (2014)*²³⁶

Marie Johnson was the Chief Technology Architect for the Department of Human Services from 2011 to 2014

on explaining to newcomers that “this is how we do things here” rather than “this is how we are looking to improve things here”.

There are disincentives for ministers to propose adaptive approaches, even if they would like to do so. The large number of competing priorities at Budget time creates an incentive for ministers and their departments to downplay the costs and risks of new initiatives and talk up the benefits in order to secure larger expenditure commitments to their portfolio. This in turn creates an incentive to adopt and promote expansion of a well-tried implementation approach, rather than admit the wisdom of trialling and demonstrating a range of approaches (some old, some new) to achieve the outcomes sought. Would it not be advantageous if, when bringing forward a new policy proposal, ministers should have to justify why they should *not* have to start by piloting their idea on a small scale and then, on the basis of trial and error, prove their implementation strategies on the ground before it is decided to spend large sums of money? For adaptive government, at least initially, small is beautiful—it is a clever way to do big things better in the future.

Aligning incentives to be adaptive

Adaptive government necessitates other changes. The assurance reviews framework administered by the Department of Finance requires proposals that are high in risk, priority, value and complexity to be assessed by independent experts. Whilst the framework has raised delivery performance, there is potential to make far better use of its Gateway Reviews and Implementation Readiness Assessments (IRAs). Feedback from those involved in the reviews indicates that they are helpful in improving the management of a large program or project. Experienced practitioners comment that it is usually obvious very early whether the initiative is likely to succeed or fail.

There may be scope to put a broader range of proposals through the initial stages of the Gateway process, while allowing initiatives that perform well in the early review stages to opt out of the later ones. Similarly, there is scope to be bolder with assurance reviews, using them to assess whether to stop doing something that is not going well, rather than just offering suggestions for improvement.

Those involved in reviews are sometimes frustrated that the Gateway process misses the mark on outcomes. Too often the process is geared around checking that the proponents “are doing things right” rather

than that they “are doing the right thing”. There is little value in agencies demonstrating best practice process when there exists a fundamental design flaw that means that implementation can never properly meet the outcomes sought by government. Building

Geoff Mulgan

“Governments often do slowly what should be done fast, and fast what should be done slowly.

Ill-thought out reforms are rushed into implementation at great cost. The experimental method offers a reasonable compromise—fast action, but on a small scale, leading to phased adoption at a larger scale. That gives politicians plenty of examples to point at, but at less risk.” (2015)²³⁸

Geoff Mulgan was Director of the Prime Minister’s Strategy Unit and Head of Policy in the Prime Minister’s Office, United Kingdom, from 1997 to 2004

greater flexibility and adaptability into the assurance reviews process would remove unnecessary red tape while making scrutiny more meaningful.

In some cases, staged financing creates perverse incentives to move too quickly to scale. The typical approach is to set aside the full project budget in the contingency reserve, and to release it once the business case has been established. This creates an incentive to talk up the business case in order to secure release of the money. A preferred alternative might be to provide sufficient 'seed capital' to allow projects to complete not only their business need and business case stages but also to develop a proof-of-concept. This evidence could then be submitted to make a case for funding a full-scale project, although it might sometimes reveal that the project is not likely to work as conceived and that further funding should not be provided, at least until other approaches have been considered. Linking this 'gated' funding process more strongly to the Gateway Review process would allow funding to be withheld until independent assurance is received that the project is going well. It might reduce the likelihood of throwing more money in the wrong direction.

The manner in which governments select modes of delivery also needs to change. New Policy Proposals (NPPs) have a laudable focus on providing evidence that supports policy intervention, but traditionally this has included little evidence about the mode of delivery. The implementation of major new projects and programs should form an equally important part of the evidence base for decisions by Cabinet or recommendations of the Expenditure Review Committee. Assessment of whether the proposed delivery methodologies have been applied or trialled successfully in the past will assist ministers to consider execution risk. Too often there is no effective pathway to gather evidence from stakeholders—the organisations, communities and individuals who can contribute practical suggestions on how to deliver new proposals most effectively. They may know much better than APS senior management what will work on the ground.

An innovation competition could engage the community on how to improve delivery of government programs

Government, through skilled public service facilitators, should actively solicit concrete proposals from the private, community and academic sectors on how their programs could be delivered better. Perhaps outcomes can be better defined; or cost savings redirected to improve services; or the burden of public service regulation lessened; or citizens given more opportunity to make choices on their own behalf. The possibilities are limitless. Opportunities should be introduced that allow government to proclaim its adaptability.

An annual, well-publicised competition might be held to gather good ideas from business and the community on how to improve the delivery of the government's major programs. For example, a Chamber of Commerce might design a scheme to encourage businesses to hire older workers and organise supportive companies to test different approaches. A group of doctors might undertake a small trial of different ways to deliver preventative health education and share the results. An emerging tech company might submit a 'Trip Advisor'

type application to help people navigate the range of disability services available or to select their own aged care provider. Here is an opportunity, on a grander scale, to build on the successes of GovHack.²³⁹ A small amount of money could be awarded to set the winners on their way, and public service mentors selected to assist them negotiate the labyrinthine systems and processes of government. Where the proponents can test the concept themselves, lend support. Where the idea would be best tested by the APS, the proponent might receive a cash prize, and (probably more important) a commitment from government to involve them fully as the test proceeds. For all ideas, the results should be published. Additional funding should be considered as part of the Budget, if the results of the test turns out to be encouraging and useful. The winners would gain not just a prize but public recognition. Equally important, the government would show itself to be actively encouraging and welcoming innovation.

Funding models should promote innovation and pay on performance

Adaptive government can go further. The full benefits of contestability will not be realised if contracting continues to be designed to encourage all providers do their business in the same way. At present, the APS tends to default to process-driven, output-based

and highly prescriptive contracts, elaborated in voluminous administrative requirements. This does not allow sufficient latitude for third-party providers to explore and implement better approaches. Opportunities exist for APS leadership to endorse a more fulsome exploration of the different funding models available by which to contract performance-based outcomes.

There are already established models available, such as alliance contracting, performance contracting and using schedules of rates and cost-plus models rather than lump sums. These models balance the probity and accountability that citizens expect to be applied to public money, with harnessing external expertise in the design and implementation of policy. As well, they create more opportunities for ideas on program design to come from outside the APS, and allow risks and benefits to flow freely between delivery partners. In essence, this is the approach which underpins the introduction of Social Benefit Bonds in NSW. What matters is that contracts provide both the flexibility and the incentive to develop and trial ideas. Innovation can improve results. These different forms of contracting need not be more risky. Rather, risks can be negotiated and managed by the party best placed to do so, with provision made to share both the upsides and downsides of experimentation. Commonwealth contracts can be written and managed to encourage public entrepreneurship.

Deregulation needs active engagement with the community and business

The Government's strong commitment to reducing red tape and making it easier for the public to deal with government must continue. This requires more than removing or simplifying regulation through the legislative process. It requires positive engagement with business, the community and citizens to better understand how their lives can be made easier when working with government. This will not occur, for example, if contracts continue to include onerous reporting conditions or grants programs have overly prescriptive guidelines.

The APS needs to value the time of its delivery partners. The Government will benefit from lower prices as partners reduce the premium they build into Australian Government contracts in order to deal with the cost incurred by poor administration. During consultations for this review, it was suggested that some outsourced providers may add up to 25 per cent to prices to cover the cost of the transaction. Here, often hidden from view, is the true burden of red tape.

Reducing the administrative and reporting guidelines imposed on third-part agents does not mean licencing delivery partners to do 'whatever it takes', or turning a blind eye to risky or inappropriate business practices. Rather, working in partnership to simplify dealing with government should lead to better risk management, through better understanding of roles and responsibilities, greater trust between partners, and greater accountability.

Digital and deliberative democratic methods can unlock better delivery

But wait, there's more. Many of the excellent ideas of the Government 2.0 Taskforce from 2009 have largely fallen by the wayside or have emerged as reporting obligations rather than opportunities for change.²⁴⁰ Recent surveys indicate that Australia is yet to fully translate its high-quality digital infrastructure and human capital into high-quality online service delivery. The 2014 United Nations *E-Government Survey* indicates that while Australia rates highly for service delivery (8th internationally), in the provision of connected services (that is, citizen-centric online solutions that cut across departments to allow data transfer), Australia rates 65 per cent where leading countries are closer to 100 per cent.²⁴¹ Compared to the UK and United States, Australia's progress on open data policy implementation has been fragmented and lacks sustained conviction.²⁴² As a consequence, government is less adaptive.

As part of this process, the APS should open up to new forms of citizen engagement both through increased sharing of government data and information and by providing more online opportunities to participate. Technology solutions, including digital democracy, can empower citizens to exercise the greater discretion they are being given. There is an increasing interest in many Westminster countries in 'citizen-centred governance'. It involves finding ways to devolve power and influence to citizens, communities and service-users. In the UK the approach has become a key component of government policies to tackle social exclusion and welfare dependency.²⁴³ Implemented well, citizen engagement can improve the design and responsiveness of services, build social capital, encourage civic participation, and build greater trust in democratic institutions. At the local level, where there is opportunity for place-based solutions, citizens can attend in person with discussions facilitated by public servants.²⁴⁴ At the regional or national level, in most instances, engagement will have to be elicited online through webinars, chat rooms, deliberative polls, or structured (but open-ended) questionnaires. Think of it as digital democracy with a purpose. As was recognised in Western Australia, 'e-engagement' allows individuals to participate who would usually not be interested in traditional methods of consultation.²⁴⁵

Such notions of active citizenship are not new in Australia. Nor do they have to be online. I have witnessed first-hand a range of projects that have been designed to bring members of the public together to discuss common concerns and to participate in the decision-making that affects them. The citizens learn negotiation skills, not helplessness. The public servants learn to listen. The design of programs may be improved and, in most instances, the manner in which they are delivered is enhanced. Of course there are hurdles, from the identification of stakeholders to agreement on purpose. Experience shows that problems can emerge during the process, ranging from collaboration fatigue to aggressive behaviour.

Yet it is disappointing that such citizen-centred approaches—which would have been so useful to informing home insulation or school hall construction—have so rarely been built into major programs. One key reason is that the expenditure of time and resources required continues to be seen as a cost rather than an investment in improved public benefits. Such perceptions need to be turned on their head. By involving the community early in planning, it is likely that programs can be delivered at lower risk and provide greater value-for-money.

If the APS invests in modernising the online engagement skills of staff at all levels, encouraging them to explore in the virtual world and discover innovative ways to engage with the public, the emerging techniques of digital democracy are more likely to become powerful tools for experimentation. Many options are available. 'Ideas markets' can allow government to be informed by votes from the community.²⁴⁷ Text mining tools can make assessments of a large volume of online submissions.²⁴⁸ Open publishing of government data, such as data.gov.au can allow third parties to make new uses of government data sets.²⁴⁹ Citizen juries or online town hall meetings can be effective tools to help build consensus around difficult choices within constrained budgets.²⁵⁰ The internet can encourage the public to report fraud, waste or emerging implementation problems early. New citizen spaces, such as, 'We Asked, You Said, We Did' in the UK allows governments to be more sensitive to market responses in the same way that successful companies are.²⁵¹ Such approaches, already trialled by the South Australian²⁵² and Western Australian²⁵³ public services, should be embraced by the APS. Deliberative technology is becoming even more sophisticated, enabling citizens to contribute to political decision-making in structured ways. The new Digital Transformation Office promises to make digital delivery of government information and services the new default.²⁵⁴ This is a vital and long overdue step in meeting the expectations of citizens regarding how they engage with government.

Michael Pratt

"I obviously realised very quickly if I come in as the subject matter expert telling career and life-long bureaucrats about how to do their job, I was probably going to have a short lifespan. What I did have... was a set of skills that they really needed... [a] modern approach to customer delivery... a lot of technology background... a real commercial approach... I then used these skills in a way that was clear to the Directors-General and their teams that I was there to help them. The first months for me were basically active listening."
(August 2014)²⁴⁶

Michael Pratt is the Services NSW Commissioner

The APS needs fully to comprehend the extent to which the public is attracted to the concept of public service. GovHack has just celebrated its fifth year.²⁵⁵ It has grown from a small mash-up event in 2009 to a huge competition that brings together large numbers of enthusiastic volunteers in 30 locations to innovate, collaborate and apply their creative skills to open government data. Some of this entrepreneurial innovation is applied directly to improving the way in which government services are delivered. Much of the energy goes into developing new apps for the community based on government data. All of this boundless enthusiasm has the potential to contribute to the creation of beneficial public impact. The event exemplifies the ethos of structured experimentation that should imbue a contemporary public service and adaptive delivery. It requires openness to different ways of doing things and active efforts to maintain goodwill with participants, by ensuring that the format remains fit-for-purpose, and is engaging and rewarding for those who take part.

Adaptive government must make full use of the potential of digital democracy. It will make it easier, cheaper, less risky and quicker to bring to government the experience and knowledge of businesses, not-for-profit organisations and universities. It will enable tech-savvy citizens to involve themselves in the full gamut of policy development and delivery. Major programs and projects should incorporate transparent and responsive digital engagement with citizens from the earliest design stages through to operation and completion. This should be done not just because it is more democratic, but because engaging widely is often the way to generate more insight, quicker. It can tap into and connect sources of expertise and experience that are distributed across the public.

Martin Bowles PSM

*“Be stewards of the system you’re dealing with; don’t try to be the owner.” (July 2015)*²⁵⁶

Martin Bowles is the Secretary of the Department of Health

Communicating an adaptive way of working

The term adaptive government may be new. Its underlying principles are not. “The future is already here”, said the science fiction writer William Gibson, “it’s just not evenly distributed”.²⁵⁷ That insight sums up the state of Australian public administration. To build and sustain innovative approaches the APS must become more open to outside ideas, learn from business, value community experience, sponsor academic research and ‘crowdsource’ citizen proposals.²⁵⁸ This commitment to an outward-looking APS needs to be championed at the highest level of government and public administration if it is to provide a strong foundation for tackling future challenges.

The factors contributing to more open and flexible government have been the subject of rigorous discussion for many years. There is evidence that they deliver results. Why, then, do these approaches so often remain at the fringes of public administration? Part of the problem, perhaps, is that those at the centre of government perceive that their position will be undermined should they be open to new voices, to admitting and discussing failure or to explicitly seeking advice. Such fears are misplaced. Nor are they universally held. From what

I have seen in the course of this review, many parts of the APS are well-positioned to get on with the business of implementing adaptive approaches to government. They are prepared to innovate, manage the risks, learn from experience and be held accountable for the results. They are waiting for permission to start.

If adaptation and agility are to become widespread practice, the roles of the public servant and the minister will need to change. Instead of controlling the whole process of implementation, they will act as stewards, shepherding the limited resources of government towards a successful result. Humility will be needed to accept that the shape of policy, or at least the way it is implemented, may evolve in unexpected ways in response to evidence and experimentation. This will be a challenging shift for those who feel more comfortable with a command-and-control style of leadership. The public servant of the future will be the facilitator of innovation.

It will not be sufficient for leaders to set managers 'free' to be adaptive. Capacity and capability need to be enhanced. Often governments that have begun experimenting with adaptive government have found their aim of 'transforming markets' has faltered because it was not sufficiently complemented by investment in new human resource skills. Nor is being adaptive just a top-down process. Some of the best ideas to improve delivery are languishing at the front line, lacking a channel to those who have the authority to adopt them. In some areas poor policy design has generated great innovation in delivery as frustrated front-line staff come up with work-arounds and improvised solutions in order to get things done.

Taking the first step requires trust. Departments must trust that their ministers will back them, so that they can learn from mistakes. Ministers must trust that citizens have the common sense to see that it is smarter to 'fail fast, fail small' rather than to pretend that failure is impossible. Citizens must trust that government will learn and improve, and that an unsuccessful trial is not a waste of public resources. Being agile needs to be authorised. Leaders should take heed of the words of the former Premier of NSW, the Hon Barry O'Farrell, who extolled the value of public servants thinking differently, even if on occasion failure was the result.²⁵⁹ As he said in a 2013 address to public servants, "[I]f you are being innovative, and from time to time there are failures, don't expect the Premier to give you a hard time ... if your goal was the correct goal. Because stuff ups do occur, mistakes do happen—that's why we trial things, that's why we undertake pilots. But unless ... we have the courage to innovate, unless we have the courage to think about how to do things differently, we won't deliver the excellence that I'm determined to—through you—across this state."²⁶⁰

Committing to trials means committing to transparency and managing the expectations of those vested in the outcomes

There is deep cynicism in some quarters around trials and pilots. Some of it is well-founded. It is unfortunate that trials have often been used in the past to fob off interest groups or to avoid committing the level of resources necessary to tackle a hard problem. These are trials employed as cost-saving measures rather than as a demonstration of effectiveness. On the other side, ministers can be too eager to move to full scale at the first sign of success in a trial. It takes time to understand why a trial succeeded in one instance and whether this result can be repeated. Often success is based on particular factors—often, I discovered in Indigenous Affairs, the leadership of a particular individual in the community. Moving too fast inevitably results in disappointment when benefits are not replicated. Once a decision has been made to grow to scale, a measured process is required to get there. Trials can also be seen as an impediment to “getting on with the job”. There will be times when government needs to move very fast and won’t have time for formal trials. At these times the adaptive approach comes into its own: intensively monitoring, adjusting and evolving policy roll-out reduces the risk of a fast-moving policy coming off the rails. Here is a good opportunity to test and refine the implementation process. Otherwise, as the old saying goes, there will be more haste and less speed.

Government must be genuine, open and honest about its reasons for trialling and piloting programs and the timeframes within which they will take place. Announcing a trial need not communicate a lack of commitment to following through on a policy. On the contrary, it should mean that government is so committed to achieving a successful outcome that it will carefully investigate the best way of doing so. Announcements will be less definitive, more open to possibilities and, at least initially, involve smaller expenditures. There will be more opportunities to talk about progress along the way. Major programs will increasingly begin in minor ways.

Not every area of government operations will benefit from such an adaptive approach. It is not a panacea. Adaptiveness is better suited to areas in which problems are complex, uncertainty prevails, risks of failure are high, and there are a range of possible options for intervention. Governments may find it challenging to invest the ‘patient capital’ to build new programs that move to scale slowly. Patience, however, can provide its own very substantial rewards.

Having the humility to admit failure is the essential first step towards genuine change

In a world with 24-hour media cycles driven by ‘gotcha’ moments and demands for greater accountability, it is difficult for government to admit failure.²⁶¹ But to presume that no public servant will ever make a mistake is hubris. I made many and I’ve reflected publicly on why I did.²⁶² Accountability means being honest about the limitations of what one knows, and having the courage to admit to a mistake and learn from it. For government to become more adaptive, it will be critical to proclaim this message over and over: that

ministers and senior leaders who are truly accountable are those who admit to making mistakes, and can demonstrate that they have learned from the experience.

It is a great shame that public trust in government institutions is not greater. It helps to explain the even more worrying fact that young Australians are losing their faith in the benefits of democracy.²⁶³ Adaptive government can provide a practical mechanism to rebuild this trust, manage risks and demonstrate that government is both learning from the past and responsive to the national challenges of the future—in partnership with citizens. Perhaps the best way for the APS to honour the lessons from the HIP, and the failure of many other major projects over the years, is to demonstrate that change has manifested itself in a new culture of public service. Out of tragedy let there be transformation.

CONCLUSIONS | Embracing Adaptive Government

F.23 The default position that new policies proceed straight to large-scale roll-out should be reversed and instead new policy proposals should include a trial or demonstration stage, allowing new approaches to be developed fast and evaluated early.

F.24 Staged decision-making for large projects should incorporate the allocation of seed funding to agencies to develop a business case and proof-of-concept, which can be tested before the project moves to a further stage.

F.25 The Australian Government should fund an innovation competition to encourage experimental, innovative community and business proposals for improving the delivery of programs and services.

F.26 In order to improve contestability and citizen choice, departments should facilitate the ability of contracted providers to take their own approaches to the delivery of agreed performance-based outcomes.

F.27 As part of continuing effort to reduce red tape, greater efforts need to be made to engage with communities and businesses to understand how contractual conditions and administrative guidelines can be less prescriptive, making it easier to work with government.

F.28 The APS should promote new forms of civil participation, including digital and deliberative democracy techniques, in order

to enhance consumer-directed care, improve customer service, encourage greater citizen engagement and inform the public economy.

The Future: Learning from Mistakes



Acronyms

AAT	Administrative Appeals Tribunal
APS	Australian Public Service
APSC	Australian Public Service Commission
ANAO	Australian National Audit Office
ANZSOG	Australia New Zealand School of Government
BCA	Business Council of Australia
BER	Building the Education Revolution
BRW	<i>Business Review Weekly</i>
CRO	Chief Risk Officer
DEEWR	Department of Education, Employment and Workplace Relations
DEWHA	Department of the Environment, Water, Heritage and the Arts
FOI	Freedom of Information (<i>Freedom of Information Act 1982</i>)
GFC	Global Financial Crisis
HIP	Home Insulation Program
ICT	Information and Communications Technology
IRA	Implementation Readiness Assessment
MoPS Act	<i>Members of Parliament (Staff) Act 1984</i>
NBN	National Broadband Network
NPP	New Policy Proposal
OCG	Office of the Coordinator-General
PbR	Payment by Results
PCG	Project Control Group
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PM&C	Department of the Prime Minister and Cabinet
SES	Senior Executive Service
SRO	Senior Responsible Officer

APPENDIX | ACKNOWLEDGEMENTS AND CONSULTATION

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Today Peter has a portfolio career. He was installed as Chancellor of the University of Western Sydney in January 2011. He chairs Opal Aged Care and QuintessenceLabs. He is a non-executive director on the boards of AMP Ltd (where he chairs the Risk Committee), AMP Life, Veda Group and Corrs Chambers Westgarth.

Peter remains active in the public sector. He is chair of the NSW Public Service Commission Advisory Board and chaired the Partnership Forum in Western Australia. He headed the Ministerial Expert Group on Gambling under Prime Minister Rudd and, in 2013, completed a report on community service sector reform for the Victorian Government. He chairs the National Centre for Vocational Education Research and the Commonwealth's Higher Education Standards Panel and is a member of the Prime Minister's Indigenous Advisory Council. He chaired the Aged Care Sector Committee and continues to lead the NSW Social Investment Expert Advisory Group.

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- ¹² The concept of adaptation has been used as the basis for a variety of approaches in different contexts. For example, 'adaptive management' is used in environmental resource management, 'adaptive development' is used in the aid literature, 'complex adaptive systems' is used by complexity science and 'adaptive leadership' is used in human resources literature. Adaptive government draws on many of the same foundational concepts but applies them specifically to the government context.
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