

Indigenous values for the APS



**An ANZSOG submission
to the Australian Public
Service Review**

May 2019

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The ANZSOG First Peoples Team

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Acknowledgment

The Australia and New Zealand School of Government (ANZSOG) has prepared this submission on Indigenous values for the Australian Public Service (APS) at the request of the Secretariat to the Independent Review of the APS.

The primary authors are the ANZSOG First Peoples Team, led by Aurora Milroy, and the submission uses the terms “we”, “us”, and “our” with reference to Aboriginal and Torres Strait Islander peoples. In providing this submission we do not claim to be speaking on behalf of all Aboriginal and Torres Strait Islander peoples across Australia, and emphasise that this submission should be seen as an opening contribution to a broader conversation on this critical issue.

The impetus for this paper was a presentation by Dr Mary Graham at the ANZSOG Indigenous Public Servant Forum in December 2018. ANZSOG acknowledges the contributions of the following people in the development of this submission:

- Dr Mary Graham
- Mr Geoff Richardson PSM
- Professor Tom Calma AO
- Ms Wendy Ah Chin
- Mr Damien Miller
- Ms Kerrie Tim
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- Ms Lillian Anderson (New Zealand)
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- Ms Sheridan Smith (New Zealand)

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This submission represents the opinions of ANZSOG staff listed above and has not been considered by the Board. Feedback from current public servants was provided in a personal capacity and reflected their own views rather than necessarily those of their departments or the Australian and New Zealand governments.

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Summary

The Independent Review of the Australian Public Service (APS) highlighted the need to reset the APS' relationship with Aboriginal and Torres Strait Islander peoples as a priority for change:

The panel's emphasis on the importance of relationships recognises that the APS cannot meet its purpose of serving all Australians unless it works openly and with integrity with partners across the community. Nowhere is this truer than in supporting the outcomes and aspirations of Aboriginal and Torres Strait Islander peoples.¹

One way to do this is to examine how the APS can benefit from incorporating Indigenous perspectives and approaches into its core values and ways of working. This has the potential to deliver better outcomes for Aboriginal and Torres Strait Islander peoples and improve the way the APS relates to the broader community. We suggest this is an important step towards the APS becoming a truly authentic Australian governance institution.

Any change to the culture of the APS must begin with its foundation document, the *Public Service Act 1999 (Cth)* (the Act). ANZSOG recommends casting an Indigenous lens across the Act, with attention to:

1. Recognition of Aboriginal and Torres Strait Islander peoples and our relationship with the APS (new clause)
2. The APS values (clause 10)
3. APS principles (new clause)
4. The APS employment principles (clause 10A)
5. The responsibilities of the Public Service Commissioner, Departmental Secretaries and Agency Heads (clauses 41, 57 and 66)

This submission outlines suggestions to recognise Indigenous perspectives and approaches in the Act and the APS. These suggestions are intended as a starting point for further conversations, engagement, research and action. The design and development of any changes requires genuine and ongoing engagement with Aboriginal and Torres Strait Islander peoples and communities.

Why do we need to consider Indigenous values?

As Aboriginal and Torres Strait Islander peoples, we occupy a unique position as the first peoples of Australia, and the caretakers and custodians of Country for over 60,000 years. As the Uluru Statement from the Heart articulates, *"Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent lands and possessed it under our own laws and customs"*.² Indigenous governance is the first form of governance in Australia, and one of the oldest continuing legal and political models in the world.

Aboriginal and Torres Strait Islander approaches to governance are rooted in an Indigenous worldview, particularly the notion that all things are connected in a web of relationships. As Palyku authors Ambelin and Blaze Kwaymullina write:

¹ *Independent Review of the APS: Priorities for Change*, 19 March 2019, p.49.

² *Uluru Statement from the Heart*, <https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru_Statement_From_The_Heart_0.PDF>.

*“In Aboriginal philosophy the universe is a pattern comprised of other patterns, of systems inside systems. It is a holistic view in which everything is interrelated and interdependent. Nothing exists in isolation. All life – and everything is alive in an Aboriginal worldview – exists in relationship to everything else”.*³

Stemming from this worldview are a number of key values and concepts, including:

- *Caring for Country*: The land is our mother and provides for us. In turn, we have an obligation to care for land, maintain ceremony, and ensure the long-term wellbeing of Country.
- *Kinship*: As with Country, we also have responsibilities to care for our broader kinship network, ensure balance and act reciprocally.
- *Consensus decision-making*: The interconnection of all things requires us to work collaboratively to make decisions.
- *Process is important*: We value making decisions in the right way, including by involving all relevant parties in the process from the start. The right outcome is one that is achieved through the right means.
- *Honesty*: The long-term sustainability of our systems and relationships relies on trust and honesty. If you see everything as connected, then failure to be honest in your interactions with others threatens the strength of our relationships, and therefore the whole system.
- *Humility*: We do not have all the answers and must recognise when others have more authority or information to help us achieve the best outcome.

These distinctly Indigenous values and worldviews are not necessarily reflected in the Act or embodied by the APS, both of which are rooted in the Western Westminster tradition. We cannot assume the Act reflects Indigenous values at present and must therefore examine it for consistency and inconsistency with Indigenous worldviews. We should also look for opportunities to enrich the Act with Indigenous knowledge and wisdom that comes from such a long tradition of governance.

Australia is a nation of great cultural and ethnic diversity. Incorporating Indigenous values into the Act will not only benefit Indigenous Australians but would further serve as an act of leadership, inclusion and stewardship in the interests of *all* Australians, regardless of their cultural or ethnic background. This would make a demonstrable difference to everyone—those accessing government services, those working in partnership with government or those working in the APS. In the words of Mitakoodi and Kalkadoon woman Kerrie Tim:

*“my Elders often refer to acknowledging the custodians for their continuing leadership and ever evolving economic, social, cultural, spiritual and religious bequest to the region (nation); and fellow Australians, for it is the dust of the bones of our ancestors and the dust of the bones of their ancestors that now intermingle, uniting us as stewards of Australia’s future.”*⁴

How can the Act recognise Indigenous perspectives?

We suggest a number of ways to cast an Indigenous lens over the Act, namely:

1. Recognition of Aboriginal and Torres Strait Islander peoples
2. New APS principles
3. Reviewed APS values
4. New APS employment principles
5. New responsibilities of the Public Service Commissioner, Departmental Secretaries and Agency Heads

³ Ambelin Kwaymullina and Blaze Kwaymullina, “Learning to Read the Signs: law in an Indigenous Reality”, *Journal of Australian Studies*, vol. 34, no. 2, 2010, p. 196.

⁴ Email correspondence from Kerrie Tim, Friday 10 May 2019.

These changes would need to be further tested with Aboriginal and Torres Strait Islander peoples (including Indigenous public servants) and communities. There may also be other changes that are drawn out or co-created through engagement with communities.

In thinking about how the Act could recognise Indigenous perspectives, it is important to note that New Zealand is currently undertaking a similar process with its State Sector Act Reforms and is further along in the journey. The New Zealand State Services Commission has acknowledged “*The Public Service has an important stewardship role to support the Crown through the government of the day, to foster a strong relationship with Māori.*” It has also suggested a number of changes to the way it works to support this relationship:⁵

- **Engagement, participation and partnership with Māori:** proactive, informed and collaborative approaches that are mutually beneficial and strengthen the relationship
- **Delivering services and results:** services that are responsive to, accessible to, and work for Māori and whanau, and well-informed decisions and interventions that improve results
- **Workforce composition and capability:** a workforce that values, reflects and understands the communities it serves, is valued for its cultural competence, and empowers Māori to succeed as Māori in the public service
- **Leadership and culture:** collective accountability for a culturally competent Public Service that delivers with and for Māori and is committed to support Māori in leadership and decision-making roles.

New Zealand also recently established the office for Māori-Crown Relations *Te Arawhiti*, with a mandate to:⁶

- Ensure the Crown meets its Treaty settlement commitments;
- Develop engagement, co-design and partnering principles that ensure agencies generate optimal solutions across social, environmental, cultural and economic development;
- Ensure the engagement of public sector agencies with Māori is meaningful;
- Provide strategic leadership and advice on contemporary Treaty issues;
- Broker solutions to challenging relationship issues with Māori;
- Coordinate significant Crown/Māori events on behalf of the Crown; and
- Provide strategic advice to the Prime Minister and the Cabinet on the risks and opportunities in Crown/Māori partnerships.

The APS Review Panel should consider what insights and lessons can be drawn from the New Zealand experience.

1. Recognition of Aboriginal and Torres Strait Islander peoples

Recognition of Aboriginal and Torres Strait Islander peoples in the Act is fundamental and important for these reasons:

- Aboriginal and Torres Strait Islander peoples were the first sovereign peoples on this land, and occupy a unique position in Australian society;
- The relationship between Government/the APS and Aboriginal and Torres Strait Islander peoples is fraught and lacking in trust due to the history of colonisation and successive policies and processes that have had a devastating and ongoing impact on Indigenous peoples, societies and cultures;
- In part due to the history between Aboriginal and Torres Strait Islander peoples and Government, Aboriginal and Torres Strait Islander peoples are major service users across the key portfolios of health, welfare, housing, child protection, education and justice.

⁵ “Responding to the Needs and Aspirations of Māori”, *State Services Commission*, <<https://www.havemysay.govt.nz/option-2/responding-to-the-needs-and-aspirations-of-maori/>>.

⁶ “Te Kāhui Hīkina (Māori Crown Relations)”, *Te Arawhiti*, <<https://www.tearawhiti.govt.nz/te-kahui-hikina-maori-crown-relations/>>.

The acknowledgment should not only recognise the historical relationship with Aboriginal and Torres Strait Islander peoples, but also a commitment to both the future of the relationship and to seek collaboration and better ways of working with communities. The only way to have a truly Australian governance model is for it to be grounded in Indigenous values. This is also central to resetting the relationship between Government and Aboriginal and Torres Strait Islander peoples

Recommendation: Co-create with communities an “Acknowledgement of Aboriginal and Torres Strait Islander peoples” clause.

Example Acknowledgement clause:

The purpose of the Australian Public Service is to serve all the peoples of Australia, including Aboriginal and Torres Strait Islander peoples. Aboriginal and Torres Strait Islander peoples occupy a unique position in this country as the traditional custodians of this land, first sovereign peoples to govern here, and as colonised peoples. The APS is an important partner of Aboriginal and Torres Strait Islander peoples and has a responsibility to respect and steward this relationship.

2. APS values

The APS values contained in clause 10 of the Act are:

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

The majority of these values are broadly consistent with Indigenous values and worldview, especially the notions of service, working collaboratively, and acting with honesty and respect.

However, clause 10 could also incorporate the central Indigenous value of **relationality**. Kombumerri and Wakka Wakka woman Dr Mary Graham and non-Indigenous Associate Professor Morgan Brigg define Aboriginal Australian Relationality as “*the embedding of people with a sentient landscape, with each other, and other-than-human beings to secure effective personal and community security through socio-political coherence, proportionality and predictability*”.⁷

Relationality suggests that the APS is embedded in a matrix of relationships with all the people and communities it serves. The relationship is not one way—with a magnanimous APS providing services to the polity—instead it is a two-way relationship where all parties have rights, obligations and responsibilities, as well as expectations of the other.

Embedding relationality as a value in the Act would invite the APS to engage with Indigenous values and worldviews; and signal the intention of the APS to work collaboratively with all communities rather than simply ‘doing things to or for them’. Many agencies have made a commitment already to change the way they work with

⁷ Morgan Brigg and Mary Graham, “Aboriginal Australian Relationality and its Relevance for the Australian Public Service” (unpublished paper, 2019), p.1.

communities through the rhetoric of co-design and community partnerships, along with a move away from transactional to strategic relationships.⁸ We believe that enshrining the principles of relationality in the Act would be welcomed by all Australians

While mostly consistent, there are some potential inconsistencies between the APS values and Indigenous values. One potential value inconsistency could be the notion of ‘impartiality’, to the extent that it implies that members of the APS must be ‘objective’. There is nothing contentious about the value of honest advice based on best evidence. However, it is critical that that evidence includes the views of the communities who are affected—based on deep listening to, and genuine respect for, Indigenous worldviews and perspectives. This reflects the Indigenous recognition of a relational existence—everyone occupies a subjective/located viewpoint, and knowledge and meaning are created through interaction of these subjective views. This is consistent also with broader mainstream understanding of the relational considerations which always underlie claims to ‘objectivity’.

Another inconsistency in the values is that many Indigenous people have not observed the APS Values in practice. This is especially the case for the notions of trustworthiness, accountability and acting on best evidence. Given the historic and ongoing lack of trust in Government by many Indigenous Australians, the APS needs to clearly and consistently demonstrate it is committed to building a new relationship with Aboriginal and Torres Strait Islander peoples. It is a process of seeking to mend the past and developing goodwill for the future.

Recommendation: Consider inserting a new value of relationality into clause 10. Test the APS Values with communities or consider starting fresh and co-creating them. Agencies should also prepare strategies for how they will build trusting relationships with communities, including through devolution of power, co-creation and co-design.

Example Relationality sub-clause in clause 10:

Relationality: The APS works collaboratively with all the communities it serves to develop policy, design services, and develop strong and genuine partnerships.

3. APS principles

While the APS Values set expectations for APS officers, it is also worth considering translating the values into a set of principles that guide how the APS functions as an institution. General support for a principles clause also emerged in our discussions. Although the Act does not contain a principles clause, notions of service, stewardship and merit emerge as defining principles throughout the Act. All three are consistent with an Indigenous worldview:

- **Service:** Kerrie Tim notes that service is central to Indigenous society: “as Murris we are raised on service—service to families, Country and communities”.⁹ Service is part of the reciprocal relationships that Indigenous peoples must maintain.
- **Merit:** Merit links with the Indigenous notion that only those with authority to speak or act should do so. A concept of merit must also encapsulate the importance of lived experience, and cultural authority.
- **Stewardship:** The principle of stewardship acknowledges the responsibility to guide and care for relationships. In an Indigenous perspective, it also implies a broader and longer-term focus, with a duty to make decisions for the sustainability of Country and all communities who the APS serves. In practice, the

⁸ See for example “Empowered Communities”, *Department of the Prime Minister and Cabinet*, <<https://www.pmc.gov.au/indigenous-affairs/empowered-communities>>.

⁹ Conversation with Kerrie Tim, Friday 3 May 2019.

long-term focus of the APS may still be shorter than most Indigenous communities, who practice multi-generational approaches to decision-making.¹⁰

In addition to the principles of service, merit and stewardship, the Indigenous principle of relationality should also form part of the defining functions of the APS.

Recommendation: Co-create with communities a set of “APS Principles”.

Example APS Principles clause

The APS is guided by the principles of:

- (1) *Service to the peoples and communities of all Australians, including Aboriginal and Torres Strait Islander peoples.*
- (2) *Merit as the founding principle for the appointment and promotion of APS officers. Merit not only includes formal qualifications but also lived experience and cultural authority.*
- (3) *Stewardship, recognising the role of the APS to be forward thinking, to lead change, and foster long-term relationships.*
- (4) *Relationality, recognising that the APS must work collaboratively with all the communities it serves to develop policy, design services, and develop strong and genuine partnerships in ways that honour their histories, traditions and practices.*

4. APS employment principles

To action change in values and approaches in the APS, more Aboriginal and Torres Strait Islander peoples must be represented in the APS, including at senior levels. Other submissions to the APS Review have touched on the issue of representation, but an additional sub-clause could be added to Section 10A of the Act to enshrine the APS commitment to representing Aboriginal and Torres Strait Islander peoples in the workforce.

Recommendation: Draft Indigenous representation clauses and test with communities.

Example clauses:

10A(1)(g) replace with: recognises the diversity of the Australian community and actively seeks to reflect that diversity through recruitment and retention strategies, including strategies positively targeting Aboriginal and Torres Strait Islander peoples.

10A(1)(h) insert: recognises the need to foster and reflect diversity at all levels of the APS including senior levels.

¹⁰ See “What is the Seventh Generation Principle?”, *Indigenous Corporate Training*, <<https://www.ictinc.ca/blog/seventh-generation-principle>>.

5. Responsibilities of the Commissioner, Secretaries and Agency Heads

Clauses 41, 57 and 66 set out the responsibilities of the Public Service Commissioner, the Secretaries of Departments and Executive Agency Heads respectively. These clauses are some of the only mechanisms that ensure the APS acts in accordance with the Act.

The APS Review Panel could consider including sub-clauses that articulate the responsibilities of the Commissioner, Secretaries and Agency Heads to Aboriginal and Torres Strait Islander peoples and Indigenous relationality. Some examples of responsibilities include:

- Stewarding the partnership relationship between the APS and Aboriginal and Torres Strait Islander peoples;
- Ensuring the APS upholds the principle of relationality;
- Ensuring the APS engages meaningfully with Aboriginal and Torres Strait Islander peoples;
- Ensuring the APS is culturally competent and culturally respectful when dealing with Indigenous peoples and issues;
- Ensuring there are strategies to recruit and retain Aboriginal and Torres Strait Islander peoples at all levels of the APS.

In the development of this submission, we heard clear messages about the practical action the APS needs to take to ensure it is ‘fit’ to serve Aboriginal and Torres Strait Islander peoples. Indigenous representation at all levels of the APS was seen as crucial. Aboriginal and Torres Strait Islander peoples bring with them their values and ways of working, and can, if they are empowered to enact Indigenous values and worldviews, drive cultural change when they occupy senior positions, in both mainstream and Indigenous Affairs roles.

Below is a summary of some further suggestions we heard to improve the APS’ ability to serve Aboriginal and Torres Strait Islander peoples, and give effect to our suggested changes in the Act. Some of these could also become responsibilities under clauses 41, 57 and 66, or could form the basis of departmental strategies.

Partnership with Aboriginal and Torres Strait Islander peoples	A culturally competent APS	A culturally safe APS	A representative APS
<ul style="list-style-type: none"> • Devolution of power, co-design and co-creation of policies and services • Build in time for engagement in all projects and involve communities from the start • Build relationships with communities outside of projects/ transactions 	<ul style="list-style-type: none"> • All agencies develop cultural competency strategies • Cultural competency training is mandated for all staff • Non-Indigenous staff are seconded to communities to understand lived experiences (and vice versa) 	<ul style="list-style-type: none"> • All agencies develop strategies to ensure the workplace is culturally safe for Aboriginal and Torres Strait Islander peoples 	<ul style="list-style-type: none"> • All agencies develop targets for Indigenous representation • All agencies develop strategies for recruitment and retention • Senior staff are accountable for representation in performance agreements

Recommendation: Co-create responsibilities in clauses 41, 57 and 66 with communities.

Next steps

This submission outlines a number of practical legislative changes that could be made to the *Public Service Act 1999* to ensure it better reflects Indigenous peoples, values and ways of doing.

The Act is the cultural foundation for the APS and has an important role in signalling the expected behaviours, practices and approaches of APS agencies and employees. Acknowledgment is the first step, and incorporation of Indigenous values follows, but these must be backed by action to fundamentally change the ways the APS engages with Indigenous peoples and issues.

By truly recognising Indigenous peoples, understanding our values, and looking at new ways to work, the APS can significantly advance Indigenous wellbeing and improve its relationship with Aboriginal and Torres Strait Islander peoples and develop better practices for engaging with all citizens. Creating an APS that serves Aboriginal and Torres Strait Islander peoples takes time. Examining opportunities to incorporate Indigenous perspectives into the Act, and co-creating these changes with communities, is an important first step in the longer journey.

ANZSOG appreciates the opportunity to make this submission to the APS Review. We are available to meet with the APS Review Panel or representatives of the Secretariat to discuss the submission in more detail, or undertake further writing or research on topics or questions emerging from the submission.