The APS’s Relationship with Ministers and their Offices

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Executive summary and questions

Politics has changed and the public service has been repeatedly and significantly remodelled through successive waves of reform. Little attention has been given to trying to reform or modify ministers’ roles as leaders and decision-makers, particularly their capacity to discharge their individual and collective responsibilities in their portfolios and in Cabinet under the pressures of modern politics. Ministers are acknowledged as being the ‘missing link’ of public sector reform. The Panel’s consideration of the purpose, leadership and governance of the APS should give significant attention to the roles, functions, performance and expectations of ministers.

Greater volatility in the politics of the last decade has impacted on the tenure of ministers and put great strains on governance. The APS will be able to play little role in ameliorating the impacts of political volatility and hyper-partisanship on the institutions and practices of Australian governance. However, to the extent that this environment is ‘the new normal’, it is likely that effective public administration will demand greater and more rapid responsiveness, and new strategies to maintain neutrality in a more deeply and chaotically political environment.

Australia’s system of administration, like that of many other Anglophone countries, is not a ‘Westminster’ model as once believed. Because this is not fully understood, and because there is no consensus about the desirable relationship between ministers and the public service, the APS review has the potential to both

• build public recognition that contemporary APS–executive relations have evolved beyond traditional understandings of the Westminster model, and
• offer reform options to help ministers and the APS operate in the new reality.

The APS serves not only ministers, but also parliament and citizens. The evolution of Australian government, public expectations, and ministers’ roles are all putting strain on the balance between the APS’s multiple objectives. In addition, the system is steadily demanding more of ministers, yet the landmark *Can Ministers Cope?* study in 1981 found that, even then, ministers were already under immense pressure.

**Question 1**

How do we develop and embed new understandings and conventions around the relationship between the bureaucracy and the executive, and the purpose of the APS?

**Question 2**

If the APS should continue to serve ministers, parliament and the people (as suggested in current legislation), what legislative and practice reforms are necessary to keep these objectives in balance?

**Question 3**

How might the responsibilities of ministers, and the support they receive, be reorganised to support their leadership of policy and administration in Australia’s long-term interests?

**Question 4**

What reforms or strategies could better support ministers to commence and manage their constitutional role as heads of an administrative portfolio?

The responsibilities of ministers are many and multifaceted. Central to the relationship between each minister and the APS is the ministerial office, which is comparatively large, politicised and
separate from the public service. Ministerial offices are extensive, staffed by a cohort that is employed under separate legislation. Advisors do important and essential work, however given how critical ministerial offices are to governance processes, there are remarkably few rules, conventions, supports or infrastructure wrapped around their establishment and operation. They have also experienced a significant separation from the APS, with reduced presence of the public service in the office, and uneven quality of working relationships. Departmental Liaison Officers are now the only systemic departmental presence in the offices, but they are small in number and limited in role.

**Question 5**
What strategies might support mutually respectful and professional relationships between elected representatives, their staff and career officials?

**Question 6**
How adequate is the employment and governance framework that underpins ministerial offices? Are there alternative models that might enable a better mix of, and better integrated, partisan and non-partisan support for ministers?

Internationally, concerns have been expressed about the capacity of career bureaucracies to compete with the proliferation of alternative sources of policy advice. Ministers themselves have sometimes driven the externalisation and politicisation of advisory systems. The capacity of the public service is perceived to have declined, though the causes are harder to understand than their impacts. Criticisms extend beyond the ability to provide high-quality, timely, accurate, strategic and imaginative policy analysis and advice to policy design, implementation and service delivery.

**Question 7**
How can policy advisory systems be recalibrated to ensure ministers can be assured of timely, high-quality, accurate and responsive advice? What changes can support the APS to draw information and advice the widest possible range of sources both within and outside of government?

A recurrent theme has been whether public servants have been sufficiently candid, forthright or robust in their advice to ministers. Some senior public service leaders have expressed concern that Freedom of Information (FOI) legislation has impeded frankness, while other evidence suggests it may not be a major factor.

**Question 8**
What is an appropriate mechanism for ventilating and debating competing perspectives on the freedom of information (FOI) legislation’s impact on the provision and receipt of policy advice?

Public servants are being called upon by governments to be more active in publicly promoting, supporting and defending government policies. Governments see this as responsiveness; scholars characterise it as ‘promiscuous partisanship’ and a radical departure from the Westminster convention of bureaucratic anonymity and neutrality. There is concern that it is fuelling suspicion and distrust of public servants by the community, and in particularly by Oppositions.
**Question 9**
What reforms would help reconcile ministers’ expectations of public responsiveness with the neutrality essential to maintain the public APS’s capacity to serve future governments?

Ministers and their offices complain about public service responsiveness – the timeliness, accuracy and quality of information and advice. These complaints about the responsiveness of the public service tend to peak at changes of government; in a more volatile political environment, this is a more frequent issue.

**Question 10**
What strategies might help overcome suspicion and distrust of the public service’s capacity and skills; and to support mutually respectful and professional relationships between elected representatives, their staff and career officials?

With increases in the pace of technology and government, and the intensification of politics more generally, opportunities need to be found to make the time and space for value-added analysis and advice. Technology-enabled solutions have the potential to create this space and capacity.

**Question 11**
How can technology enabled practices address or overcome traditional difficulties for public servants providing ministers with timely, quality advice? What new challenges do digital approaches create, and how might they be addressed?

The APS is required to be a steward, managing the administrative capacity of the service for present and future governments, and for the Australian people. Stewardship has many aspects, and is about maintaining the culture and capacity that will guarantee that public servants will be able to meet future demands. This means understanding and being able to serve Oppositions as future governments. One question rarely addressed is whether the APS, particularly Secretaries, is the institution best able to provide all aspects of stewardship.

**Question 12**
Which of the APS’ stewardship responsibilities need most support to match the evolving relationship between APS and government and the challenges this is producing?

**Question 13**
Are Oppositions adequately supported in their roles as ‘executives in waiting’ as envisaged in Westminster-style systems? What approaches might support development of appropriately professional and impartial relationships between Opposition and the APS, while balancing its obligations to serve the government of the day?

**Question 14**
Should some of the stewardship needs be met through the development of new institutions, or strengthening of existing ones, that lie outside the APS itself, rather than continuing to place this responsibility primarily on Secretaries?
Background: Our task

This paper responds to the Secretariat to the Independent Panel reviewing the Australian Public Service’s (APS) request for a high-level literature review (10-15 pages) and a forward-looking ‘prodding paper’ (2 pages) that could form the basis for the Panel’s deliberations on the crucial topic of the APS’s Relationship with Ministers and their Offices.

In what follows, we outline the results of our comprehensive review of the international scholarly and grey literature that bears on the relationship between elected representatives and career officials, as well as our own fieldwork and research over the past 20 years. Our investigations addressed the following framing questions:

- What are the key drivers of the changing relationship between the APS and Ministers and their offices over time?
  - What are the main consequences of the change (intended and unintended)?
  - What has this meant for the role of the APS?

- What issues or challenges does the international scholarly literature and practitioner perspectives identify about the nature of the political–administrative interface?
  - Are these in evidence in the Australian context, and what are their implications for the APS?

- How does the relationship between the APS and Ministers and their offices relate to suggested concerns regarding policy advising including that:
  - The policy capacity of the APS is perceived to have declined
  - Demands for responsiveness risk may be crowding out longer term analytical work
  - There may be reluctance on the part of Ministers and public servants to canvas a full range of policy options and
  - It may be difficult for Secretaries to exercise their stewardship obligations for ensuring the public service can serve current and future governments and the Australian public

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The challenges of a changing context

The Australian Public Service (APS) is an institution whose relationship to government has changed and evolved over a century. Its features have varied in this time, as it has responded to a changing context, the priorities and requirements of different governments, and the specific imperatives of circumstances affecting the nation.

Between 1945 and 2007, Australia experienced only six changes of government. This pattern of long-term governments and stable ministries has been supplanted by the volatility of the past decade. The 2010 election delivered a hung parliament, while 2016 produced a single-seat majority. Four first-term prime ministers (Kevin Rudd, Julia Gillard, Tony Abbott and Malcolm Turnbull) have been replaced after losing the support of their party room, and the political instability has played out in cabinet, with regular reshuffles seeing many ministers holding portfolio for less than two years. There have now been five prime ministers in five years, earning Australia the unenviable reputation for having become the ‘coup capital’ of the world.

The instability of Australian party and parliamentary politics has and continues to pose a profound challenge for the APS as well as for the country generally, as many important stakeholders and observers have noted. It is not the first time Australia has experienced political turbulence (Strangio, 'tHart and Walter 2016), but there is widespread concern that our system of governance is broken. It will not be fixed by reforming the APS in isolation. It will require a much more fundamental examination of the institutions and processes of Australian democracy.

Ministers need to be part of the debate about a changing relationship

Politics has changed in recent decades, and the public service has been repeatedly and significantly remodelled through successive waves of reform as the needs and expectations of the community have evolved. Some of this reform has tried to accommodate the changing role of ministers. However, little attention has been given to trying to reform or modify their roles as leaders and decision-makers, particularly their capacity to discharge their individual and collective responsibilities in their portfolios and in Cabinet under the pressures of modern politics and ‘the permanent campaign’. This is now a significant source of difficulty in the political-administrative relationship. This is evident from scholarly research and practitioner observations, in Australia and internationally. The interplay between politics and policy is the fundamental issue in our system of governance that needs to be addressed. For the APS to ensure quality support to government and to remain relevant, the way the political executive relates to the APS needs review and reform.

The APS exists because a career bureaucracy is a constitutional feature of the Westminster tradition from which Australia’s political and administrative practices were derived. ‘Westminster’ is a term that encompasses a set of beliefs about British parliamentary government and a shared inheritance that creates expectations ‘that guide and justify behaviour’ (Rhodes and Weller 2005, 2). It does not, nor has it ever provided a definitive or prescribed model of the relationships between ministers and public servants (Grube & Howard 2016). As a result, the formal relationship of the APS to executive government is not straightforward, nor easily described. Many features that are asserted as being central to the Westminster model are not evident in what is usually referred to as the classic statement of the model: the Northcote-Trevelyan report of 1854 (Weller and Haddon 2016).
The APS is expected to serve multiple, often competing objectives. This is evident from the outset in the current Public Service Act, which establishes ‘an apolitical public service that is efficient and effective in serving the Government, the Parliament and the Australian public’ (s.3). In that formulation, there is not one master, but several. Similarly, the APS Values refer to achieving ‘best results for the Australian community and the Government’ (s.10). The formal expression of multiple objectives and responsibilities is neither unique, nor surprising. As Richards and Smith (2016) observe in the UK context, ‘Loyalty for officials is multi-faceted; they are loyal to the corps of the Civil Service, to the government, to the Department and to the minister. In this sense, they always have conflicting loyalties’.

Against this complexity, is an apparent simplicity in the lines of responsibility: the APS is part of the political executive, responsible to ministers. Public servants are employed by agency heads, and agency heads are effectively appointed by the Prime Minister (with input from the PM’s own Departmental Secretary, portfolio minister and the APS Commissioner) (Act s.58). The Constitution (s.64) describes ministers as ‘officers to administer [the] departments of State’.

Governing effectively depends on the ability of ministers and senior officials, whose relationship is characterised by mutual dependency, to work together (‘tHart 2014). The model was envisaged as a partnership – a ‘governing marriage’, in which politicians provided ‘political leadership’ while senior officials practised ‘administrative leadership’. But it is increasingly untenable to distinguish the activities of political and administrative leadership (Smith and Richards 2016). In the era of the permanent campaign, politics is pervasive. The primary imperative for political leaders and senior officials has become to cope and to survive the rigours of the 24/7 news cycle and other contingencies that frustrate efforts to plan for the medium term (Rhodes 2011; Rhodes & Tiernan 2016; Savoie 2017). This has put ministers and senior officials alike in a state of ‘scarcity’ – robbing them of time to read, think and to reflect on policy, to Australia’s detriment (BCA 2013; CEDA 2013; Westacott 2012).

For this reason, the Panel’s consideration of the purpose, leadership and governance of the APS should give significant attention to the roles, functions, performance and expectations of ministers. From the Royal Commission on Australian Government Administration to the present day, the executive’s influence on the quality and effectiveness of the relationship between APS and ministers has been relatively neglected. The Review should seek to remedy this lack of focus, since internationally, ministers are acknowledged as being the ‘missing link’ of public sector reform (Pollitt and Bouckaert 2011; Tange 1982; Tiernan 2015).

Re-orienting the public and political discussion of public service

Evolution and change to public service institutions has always reflected the governing context. Unlike the colonial administrations that preceded the creation of State bureaucracies, the APS was established in 1901 as a united service. Its scope and responsibilities were limited, reflecting the Commonwealth’s powers as enumerated in the Constitution. Major challenges that confronted the nation, including the Great Depression and two world wars, changed expectations of and demands on the federal government. World War Two and the post-war reconstruction brought to government a group of officials, drawn from outside government (particularly academia and the banks), whose close working relationship with political leaders became ‘impartial’ (Brown 2015). This partnership between ministers and senior officials was the product of a particular confluence of ideas, events, personalities and the 23-year reign of Prime Minister Robert Menzies.
The prevailing context affects expectations about the role of the public service and relationships with elected representatives. As the context shifted in the 1970s, and reflecting comparable trends internationally, new leaders came to see the public service as ‘imperial’, unresponsive and occasionally obstructionist to the priorities of democratically elected governments. It was at odds with the reformist ambitions of incoming governments. This was the case when the Whitlam government came to office in 1972 and when the Treasury clashed with Prime Minister Malcolm Fraser in 1976 (Maley 2018, 325-327). It was so again in 1996, when after 13 years of the Hawke-Keating Labor governments, the Howard government came to power; and again with the incoming Rudd government in 2007 (see, e.g. Roxon cited in Donaldson 2017).

Both in Australia and elsewhere, governments’ experiences of frustration with bureaucracies fuelled their zeal for change that has resulted in waves of reform and change characterised as ‘a permanent revolution’ in the public sector (Diamond 2019, 6). Key among these were efforts to make government more business-like. Countries like Australia, Canada, the Netherlands, New Zealand, Sweden, the UK and the USA launched major programs of central government reform that later became known by the umbrella term of New Public Management (NPM) (Pollitt and Bouckaert, 2011). Common themes included: introducing competition to the public sector; greater emphasis on performance management; giving ministers access to advice and support from personally appointed and explicitly partisan staff; and strengthening the strategic, as opposed to the operational, role of central government (for a useful overview, see Halligan 2015). Aspects of these changes are seen as decisive in creating more distant political-administrative relationships.

By the late 1990s, growing criticism in countries that had embraced NPM most enthusiastically (Australia, NZ, UK, USA) prompted recognition of unintended consequences, notably fragmentation, problems of coordination, consistency and accountability. Alternative approaches to reform emerged to account for increasing globalisation and loss of coordination associated with network governance – the involvement of a wider range of actors and interests in policy and service delivery. These alternative approaches included: ‘joined up’ government; implementation/delivery units and the intensification of performance management regimes. But no model of reform was as similarly dominant as NPM.

As governments sought to manage the tensions and contradictions emerging in NPM, the political-administrative environment was also becoming increasingly politicised. Canadian scholar Peter Aucoin (2012) coined the term New Political Governance (NPG) to characterise a changing and increasingly fraught relationship between career officials and their political principals in Westminster-style polities. It is an outcome of efforts to increase public service responsiveness by asserting greater ministerial direction and control in their roles as heads of departments. Aucoin (2012, 178) argues that this has included:

> ... a form of politicization that explicitly runs counter to the public service tradition of impartiality in the administration of public services and the nonpartisan management of the public service.

NPG has four main features:

- the integration of executive governance and the permanent campaign,
- partisan-political staff as a third force in governance and public administration,
- a personal politicization of appointments to the senior public service, and
an assumption that public service loyalty to, and support for, the government means being 'promiscuously partisan' for the government of the day. (Aucoin 2012, 179)

Other scholars noted the same pattern of change in Westminster countries (Savoie 2017; Gouglas and Brans 2016). This pattern of reforms, and their unintended consequences, has been cause for significant debate and concern among both scholars and practitioners (see, for example, Smith 2012; Halton 2016; Varghese 2016; Tiernan and Weller 2010; Rhodes 2011).

In Britain it has led academic and former ministerial adviser Patrick Diamond to proclaim that the NPG has brought the end of the Westminster model of public administration. Canadian scholar Donald Savoie (2017) draws similar conclusions. Diamond chronicles the blurring of the boundaries between politics and administration and a loss of trust such that ‘mutual dependency between civil servants and Ministers has collapsed’ (2019, p.17) in an environment where the public service ‘are too cowed to ‘speak truth to power’ and are increasingly afraid to think for themselves.’ (p.6) Diamond contends that ‘partisanship prevails over the pursuit of the public interest. The deliberative space’ for policy-making has been denuded at the expense of good government and the public service ethos’ (p.3).

Importantly, Diamond (2019, 89) argues that:

*Answers to the next fifty years are unlikely to be found in the orthodoxies of Northcote-Trevelyan or Haldane, however revered. Repairing British governance is not only to do with restoring constitutional propriety and basic principles of accountability. The central issue is about what the state has the capacity to do and how the system of government is organised to deal with the most pressing social and economic issues of our time.*

Others make similar observations, if in less dramatic terms (eg. Richards and Smith 2016; Peters and Pierre 2004 [quoted in Pollitt and Bouckaert 2011, p.161]).

In Australia, academics and practitioners have noted similar changes. Retiring departmental head Ric Smith is one of several to have observed the growth of ministerial offices in their valedictory speeches, noting that their role was now ‘advising on the full range of a minister’s responsibilities. In effect, by comparison with 1969, we now have a whole new layer or level of government.’ (2012, p. 35) Tiernan (2007) described the position of these staff as constitutionally anomalous, noting that political practice had outstripped constitutional theory. Addressing the Institute of Public Administration Australia (IPAA) National Conference in 2012, Business Council of Australia Chief Executive, Jennifer Westacott lamented:

- That many modern politicians have lost sight of the fundamental role of the public service.
- That your authority has been undermined by political gatekeepers, often with little expertise and no accountability...
- That your custodianship of the long-term policy agenda has been eroded by short-term thinking, and
- That the necessary investment in capacity building, succession planning, technology and new ways of providing services just isn’t there.

Australia’s system of administration, like that of many other Anglophone countries, is not a ‘Westminster’ model as this was once understood. The term continues to be used as touchstone, concealing both a different reality and divided views about how the relationship between ministers and the public service should work.
There remains ‘no agreement on either the stewardship role of the public service, or what now constitutes a ‘proper’ relationship between ministers and public servants’ (Tiernan 2015). Some government ministers think the APS exists to implement policy; others expect it to be a source of policy ideas (Tiernan 2011). It is not clear how a career public service should operate in the context of the ‘permanent campaign’, where politics is pervasive and the imperative to ‘cope and survive’ predominates (Rhodes & Tiernan 2014). There is not consistent ‘demand’ from ministers for policy depth and expertise from the public service – mostly because their time is subordinated to political management. The lack of shared understanding across polity and community leads to ‘two systems, political and bureaucratic, talking past each other and each nursing a quiet disappointment with the other.’ (Varghese 2016).

The same is true in other Westminster-style systems. In the UK, a Permanent Secretary remarked:

> I would say that clarifying the role of ministers and officials is the major unresolved constitutional question. It is a question that has been deliberately left untouched – the Pandora’s box that now needs opening (quoted in Lodge and Rogers 2006, 73)

The APS review has the potential to build public recognition that contemporary APS-executive relations have evolved beyond traditional understandings of the Westminster model of public governance, and explore what this means for the future.

### Prodding questions

1. How do we develop and embed new understandings and conventions around the relationship between the bureaucracy and the executive, and the purpose of the APS?

2. If the APS should continue to serve ministers, parliament and the people (as suggested in current legislation), what legislative and practice reforms are necessary to keep these objectives in balance?

### Ministers

In 1981 Patrick Weller and Michelle Grattan asked *Can Ministers Cope?* In 2010 Weller and Tiernan revisited this question in their book *Learning to be a Minister*. It traced the changing context and expectations on ministers in Australia’s federal parliament through the experience of incoming Rudd government ministers and the reflections of members of the outgoing Howard ministry.

The Westminster model confers ‘heroic expectations’ on ministers. Entering government, and taking up ministerial office, presents an extremely steep learning curve, even for experienced politicians (Tiernan and Weller 2010). Ministers learn on the job while doing the job. We may have seen the rise of the career politician, but ministerial office frequently remains the ‘last bastion of the amateur’ (Tiernan 2015).

Politics may be becoming more professional, but this has not translated to formal preparation for becoming a minister (Hartley 2014; Tiernan and Weller 2010). Few countries provide professional development for politicians (Reading et al 2011), and Australia has no such
tradition of formal preparation. Lacking developmental pathways, more diverse occupational backgrounds, career and life experiences and institutional memory, and serving shorter parliamentary apprenticeships (Paluski and Tranter (2015), ministers are perhaps the only leaders of large organisations in modern society who can have little training or relevant experience when they take up their role (Hartley 2011; Tiernan 2016). Although ministers would welcome more opportunities to think and reflect (Tiernan and Weller 2010, 306), to date they have been resistant to suggestions they might undertake some form of professional development.

The literature is clear that ministers have their own styles of work and individual expectations of their portfolio agencies. Some seek more advice than others; some want to be active managers and some do not; some are passionate about a particular portfolio while others are not. This diversity of ministerial styles is understood; it is also taken as given.

It is possible for the APS to support diverse ministerial styles. However, advisory systems that are going to cope with diverse styles presume knowledge of the person. They require a close relationship and intimate understanding of how someone works. Modern advisory systems instead have interposed ministerial staff between ministers and the APS, characterised by a more distant relationship with less trust. These circumstances make it harder to serve the diversity of ministers.

The nature of Opposition, the narrowing of career backgrounds, a shorter parliamentary apprenticeship, and the expectation they will hit the ground running from the first day of their appointment all limit opportunities for ministers to consider approaches that might enhance their effectiveness, or the likelihood of achieving their political and policy objectives.

Prodding questions

3. How might the responsibilities of ministers, and the support they receive, be reorganised to support their leadership of policy and administration in Australia’s long-term interests

4. What reforms or strategies could better support ministers to commence and manage their constitutional role as heads of an administrative portfolio?

Advising ministers

Ministers’ responsibilities are many and multifaceted, as Figure 1 illustrates. Constitutionally, ministers are appointed to ‘administer’ departments (Section 64). There is no ambiguity about who serves whom: under the Public Service Act, departmental secretaries are appointed to manage the department ‘under the minister’. Amidst increasing demands on their time from the volume of briefs, submissions, meetings, travel, electorate and other tasks, ministers must balance their mix of roles, all of which they must take account most of the time (Tiernan and Weller 2010). They are not analytically distinct, just part of the job and of navigating the contextual and contingent dilemmas that confront them on a daily basis.

Central to the relationship between each minister and the APS is the ministerial office. The way in which these work together is, in theory, premised on a principle of complementarity – that
ministerial staff and public servants bring distinct but complementary skills to their shared task. Larger numbers of ministerial staff, their proximity to ministers, and the pervasiveness of politics have altered the balance of influence between staffers and public servants.

Ministerial offices are extensive. In Australia, they have become one of the largest of the Westminster-style systems, second only to Canada (Maley 2018b, 15). They are staffed by a cohort that is employed under separate legislation (the Members of Parliament (Staff) Act 1984) designed solely for the purpose, and are significantly different in career and outlook from the APS. They are a prominent source of advice both to the minister and, on behalf of the minister, to the APS. There is no formal selection process for people into these roles, and significant questions exist around their accountability for the significant authority that they wield (Tiernan 2007; Abbott and Cohen 2014).

As Maley (2018a) notes, Australia’s model of large, politicised and separate ministerial offices contrasts with arrangements in other Westminster-style systems. In the UK, partisan staff and career officials work together in hybrid offices, located within the institution of the civil service. The institutional design of the Australian model was a historical compromise that averted the incoming Hawke Labor government’s plans to introduce US style political appointees to the senior ranks of the APS. Maley (2018a, 329) notes, ‘The key to the compromise was that the appointees would not be employed inside the public service, but in a separate service.’ One unintended consequence of this compromise was that ‘the non-partisan public service has virtually no place within ministers’ offices’ (Maley 2017, 410). This deprives ministers of ‘neutral competence’ in their private offices. It may also deter talented officials from spending time in a minister’s office – which historically was considered an important professional development opportunity, because of the risk they might become ‘tagged’ – perceived by subsequent ministers as partisan (Maley 2017).

One of the features of contemporary cabinet governance is the increasing centralisation of power and policy work around the Prime Minister and an inner ‘court’ of senior ministers (Rhodes and Tiernan 2014; Savoie 2008, 2017). The ‘court politics’ of the central networks of executive government means that greater importance is attached to overcoming the persistent dilemma of fragmentation through central co-ordination. The desire of the inner court to have control
of policy and political messaging has fed the growth of ministerial staff numbers and roles, particularly among the inner circles that surround senior ministers. This in turn is decreasing the ability of the bureaucracy to access and directly serve the political executive.

Advisors do important and essential work (Shaw and Eichbaum 2018). This needs to be recognised and continue. Given how critical ministerial offices are to governance processes, there are remarkably few rules, conventions, supports or infrastructure wrapped around their establishment and operation. Each government – indeed each minister – structures their own office according to their own or the Prime Minister’s requirements or perceived needs. There are limited underlying systems and models made available, reflecting the lack of institutional memory between governments or ministers, in an environment that is partisan and competitive.

Public servants used to play a significant role in ministerial offices, and many ministerial staff once had careers that were linked to the public service (Maley 2002; Tiernan 2007). Neither is still the case. In the Keating years, up to 70 per cent of ministerial staff were seconded public servants; in 2016 that number was around 20 per cent (Maley 2017, 4). This decrease reduces the administrative expertise and understanding in the ministerial office. It has also attenuated the degree of experience and understanding of ministerial work among public service leaders.

Within ministerial offices, Departmental Liaison Officers are now the only departmental positions. DLOs are public servants appointed to ministerial offices to help establish administrative routines and the flow of paper, information and advice between the office and the department. DLOs work under the minister’s direction for the duration of their appointments, but remain departmental officers employed under the Public Service Act, and are funded by their own departments.

The DLO position is crucial, but its occupants can find themselves treading a difficult line between the expectations of their minister and their department. In addition, practice varies, with DLOs ranging from mid-level officers to more experienced senior executives. Some Secretaries elect to send senior officers to assist, particularly at a transition of government, as they find this can help to foster confidence and trust by demonstrating the department’s value in establishing systems and processes (Tiernan and Weller 2010) – but this is an ad hoc arrangement.

It is not clear whether current arrangements are serving ministers well. The problems identified by ministers and staff (even where they did not recognise the cause) include:

- A lack of institutional memory; including a lack of understanding of the history of policy issues, including the political and administrative compromises that explained the current state of play
- Limited understanding of the available policy options (and why some might not be available)
- Inefficiencies in office practices and workflows, including a lack of role clarity within ministerial offices.
- Lack of trust and mutual understanding.

The separate employment frameworks and the growing gap between public servants and ministerial advisers means that the latter are increasingly likely to have or seek a career in public administration. For staffers, their career begins and ends with their minister: they have no employment security. Professionally, when governments change they are tainted by their association with a previous minister. There is no developmental pathway linking advisors to the public sector generally, and as a result their careers are increasingly those of ‘political warriors’,
which further fuels the already growing hyper-partisanship of modern politics.

There has been no substantive review of the governance framework that supports ministerial offices and their relationship to the APS. Nor has there been consideration of the role of the DLO. The time is overdue to consider whether the design of the ministerial office framework is right; whether we need a system that avoids the current circumstances, whereby public servants can’t be ministerial policy advisers without changing employment frameworks. We need to review the organisational models to achieve responsiveness and to determine whether the legislative framework developed in 1984 is fit for purpose.

Prodding questions

5. What strategies might support mutually respectful and professional relationships between elected representatives, their staff and career officials?

6. How adequate is the employment and governance framework that underpins ministerial offices? Are there alternative models that might enable a better mix of, and better integrated, partisan and non-partisan support for ministers?

Serving ministers

Internationally, concerns have been expressed about the capacity of career bureaucracies to compete with the proliferation of alternative sources of policy advice (Tiernan 2011). Ministers now have access to advice from far more diverse and pluralised sources including: think tanks, consultants, academics/researchers, professional lobbyists, interest groups and other advocates, political parties, ministerial staff, expert advisory committees/panels, taskforces, inquiries, media, social media; and their own personal and professional networks.

Ministers themselves have driven the externalisation and politicisation of advisory systems (Craft and Howlett 2013) as they have sought support to deal with the complex demands of their jobs; the problem of ‘ministerial overload’; to seek alignment from and assert political control over the bureaucracy and to function effectively in an increasingly competitive and professionalised 24/7 political and policy environment.

Former New Zealand PM, Bill English (2012) offered a minister’s perspective on the drive for contestability, when he observed that:

Other people can help us. It no longer matters who does the job. [Governments] need to engage with the pool of knowledge that exists... Capacity is everywhere – how to leverage?

Declining capacity

The problem of policy capacity has been extensively canvassed by scholars and practitioners (for a summary see Edwards, Head, Tiernan and Walter 2017). Criticisms extend beyond the ability to provide high-quality, timely, accurate, strategic and imaginative policy analysis and advice; they also encompass policy design, implementation and service delivery. At least some of these are attributable to the Commonwealth seeking a more active role in areas of State responsibility.

The problem of passing the responsibility for advice and briefing upwards through layers of management has been identified in capability reviews of APS agencies, as well as in state jurisdictions. Former Secretary of the Department of Environment and Energy, Dr Gordon de Brouwer (2017), offered his perspective on what had led to these kinds of outcomes:
My sense is that, over the years, as problems have occurred, or mistakes have been made, management of issues and briefing responsibilities have been progressively elevated and sometimes centralised. I suspect that too often Senior Executive officers have ended up doing the jobs of Executive Level officers as a way to manage risk, that they too often (usually unintentionally) crowd out more junior officers, and that those EL officers in turn do not have the opportunity to learn on the job and hone their analytical, conceptual and communication skills and judgment. The result is that we are not developing the next cohort of leaders and senior leaders to think and to have the ability and courage to provide good and persuasive strategic and operational advice to ministers.

The ubiquity of policy failures and government ‘blunders’ has been noted across all different types of political systems – so much so that the study of policy failure has become a distinctive stream in recent public administration literature. Patrick Diamond attributes these failings to the ‘permanent revolution’ in Whitehall. He argues that in subjecting the civil service to constant change ‘Ministers have paradoxically undermined Whitehall’s policymaking capacity’ (Diamond 2019, 6).

In the United States, Donald Kettl (2016) has described a ‘dangerous decline’ in the [federal] government’s ‘capacity to deliver’. This is a consequence, he argues, of political leaders disinvesting in the administrative capacities necessary to oversee and manage complex programs. He cites the growing gap between public expectations and the results delivered by government agencies as a primary cause of declining trust in political institutions and processes, which is also strongly apparent in Australia (Edelman Trust Barometer 2018). In Britain, the governance problems that Richards and Smith (2016) attribute to the NPM reforms have created a loss of expertise, and they note that ‘the deliberative space to provide critical input has contracted’. King and Crewe (2014) draw similar conclusions, lamenting the lack of a strong centre, frequent turnover of ministers, and ministerial activism that privileges speed over accuracy and that has created a ‘them and us’ atmosphere in their relationships with career officials.

Such concerns have obvious salience in Australia, which is far further evolved towards a ‘hybrid’ advisory system (encompassing official advisers in departments and partisan advisers in ministerial offices) than all comparable Westminster-style jurisdictions except Canada. Here, a litany of reviews and inquiries spanning all tiers of government has raised questions about the quality of advice and support for decision-making.

**Prodding question**

7. How can policy advisory systems be recalibrated to ensure ministers can be assured of timely, high-quality, accurate and responsive advice? What changes can support the APS to draw information and advice from the widest possible range of sources both within and outside of government?

**Robust advice?**

A recurrent theme has been whether public servants have been sufficiently candid, forthright or robust in their advice to ministers on important elements of policy design and risk, and the
extent to which this is because officials believe that ministers (and their private office staff) are not receptive to information and advice that challenges, or is contrary to, their preconceived views or preferred political direction.

Some senior public service leaders have expressed concern that Freedom of Information (FOI) legislation, especially following reforms in 2010 that weighted the Act towards disclosure, has had two unintended consequences. Firstly, ministers and their staff may be unwilling to accept ‘unwelcome’ advice, resulting in a preference for oral rather than written briefing. A second unintended consequence is that departments may be unwilling to provide robust advice for fear it may antagonise ministers.

This reticence towards committing advice to paper for fear of recrimination or political embarrassment, must be balanced against the public good of an open and accountable government provided by FOI legislation. While the Learning from Failure report observed that “ironically, application of the revised public interest test [in the FOI amendments] has now had the unforeseen effect of lowering standards of public administration and, as a consequence, undermining the public interest in good policy” (p. 21), this perspective must be balanced against the evidence that record-keeping of advice was less-than-exemplary even before the 2010 reforms (see, e.g., concerns arising from the channels of advice in the 2009 Home Insulation Package rollout – Hawke Report), and that the Learning from Failure report’s conclusions were based on limited anecdotal examples. Additionally, in Sankey v Whitlam (1978) (which highlighted the need for FOI legislation), Gibbs, Stephen and Mason expressed deep scepticism of claims that access to information would inhibit the quality and candour of advice provided to ministers. This critical approach to the impact of FOI on public servants’ advice raises questions about whether FOI does, or must, impede frank and fearless advice, or whether ministers and their advisors have simply convinced themselves that this must be so.

At a deeper level the dilemma is that, if this issue is real, it reflects a more fundamental problem of political culture and practice, that blurs or does not properly reflect the distinction between advice and decisions. It is notable that the issues with FOI are generally raised by public servants rather than by the ministers who might be thought the ones most affected by it. It may be that the issue lies more with public servants expecting their advice to be taken than with ministers not wanting a range of options presented to them.

How, then, are we to balance the competing perspectives of those inside the public service, who see FOI requirements as hampering their ability to advise ministers in the manner they would like, and those outside, who view FOI as essential to an open and accountable government and the public service’s duty to serve the people? Some within government (Oliver 1993; Prasser 2006) have called for Australia to look to the US example which, while clearly outside the Westminster tradition, has proved well-served by its robust FOI mechanisms. Retaining but clarifying public servants’ multiple duties towards ministers and the Australia people, might also provide insight on how best to provide a FOI regime that also empowers frank and fearless advice.

**Prodding question**

8. What is an appropriate mechanism for ventilating and debating competing perspectives on the freedom of information (FOI) legislation’s impact on the provision and receipt of policy advice?
Responsiveness

Ministers and their offices complain about public service responsiveness – the timeliness, accuracy and quality of information and advice. They often question the extent to which advice provided is creative and forward-looking; is cognizant of the political dynamics surrounding the issues; and is informed by a range of perspectives and inputs, including comparative analysis and insights gained from ‘meaningful and substantive consultation’ with stakeholders (Treasury 2011).

Complaints about the responsiveness of the public service tend to peak at changes of government (Lindquist and Tiernan 2011). They reflect suspicion and mistrust of the public service. This is being exacerbated by the increasingly distant and adversarial relationship between governments and Oppositions. It can also be a product of the time it takes the public service to get on a new government’s ‘wavelength’ – to adjust to its priorities and operating style.

Prodding questions

9. What reforms would help reconcile ministers’ expectations of public responsiveness with the neutrality essential to maintain the public APS’s capacity to serve future governments?

10. What strategies might help overcome suspicion and distrust of the public service’s capacity and skills; and to support mutually respectful and professional relationships between elected representatives, their staff and career officials?

Serving ministers: technology-enabled practices

The dynamic briefing system that the Department of the Prime Minister and Cabinet (PM&C) developed for former Prime Minister Malcolm Turnbull is an example of technology-enabled solutions that have the potential to create space and capacity for value-added analysis and advice.

The ‘Digital First’ system was designed and developed by PM&C. An in-house team created a centralised, collaborative electronic briefing environment to support the Prime Minister and the Prime Minister’s Office (PMO). The system, which sought to engage the PM and policy advisers in the PMO directly in advice and briefing, has proved a resounding success. It won a Judge’s award at the 2017 Public Sector Innovation Awards, and has been rolled out to other departments over the past 12 months (IPAA 2017; Parkinson 2017). The Digital First System’s key strength is that it allows the PM to annotate briefs, ask questions, receive answers and make decisions on briefing materials in real time. This ensures advice is timely and accurate; that it can updated quickly if a ‘hot issue’ emerges, or new information becomes available. The system supports the workflow, monitoring and prioritisation of briefs, including by enabling the PM and staff to access the system from their mobile devices.

The system’s benefits are not limited to creating efficiencies for busy prime ministers. The developers argue the ability to communicate directly with the minister or their office is empowering for public servants. It allows them to understand the context and purpose of briefing requests and to receive feedback on the quality and utility of their advice. It also
signals to them that they are trusted, and that their work is seen as valuable. In the context of observations above about deteriorating trust between ministers and public servants, the opportunity to strengthen this relationship by creating new communication channels is welcome. Additionally, the collaborative nature of the system, especially its comments thread that enables dialogue between the minister and their department, can combat centralisation in terms of who provides advice, and promotes clearer lines of accountability.

Placing greater emphasis on technology presents its own challenges. First, while systems that enable more direct communication with ministers promotes efficiency and mutual trust, hierarchies within the department and within the minister’s office provide important quality control for the advice a minister receives, and should not be bypassed entirely. Second, access to information in the digital age is a chief concern. The challenge of ensuring data remains secure is the most prominent issue, especially in light of ongoing unease about ministers’ use of instant messaging apps such as WhatsApp (e.g. Massola 2016). But security of data, both against hacks and leaks, is not the only concern. Citizens’ ability to access information via Freedom of Information requests may also be hindered by an increased reliance on digital briefing and communication practices. While steps are being taken to ensure that access to information legislation keeps up with advances in technology (Open Government Partnership Australia 2018), it is critical that new practices that make greater use of technology follow the Digital First system’s proactive approach to compliance with FOI management and archiving.

Prodding question

11. How can technology-enabled practices address or overcome traditional difficulties for public servants providing ministers with timely, quality advice? What new challenges do digital approaches create, and how might they be addressed?

Serving future ministers and the future APS

One aspect of the APS, envisaged in sections 3 and 10 of the legislation, is to be a steward, managing the administrative capacity of the service for present and future governments, and for the Australian people.

Stewardship is a complex concept, and while mentioned in the APS Act, is not defined. Currently, this responsibility falls primarily upon secretaries, with some functions resting with the public service commissioner. The Act refers to secretaries having the role of “leader, providing stewardship within the Department and, in partnership with the Secretaries Board, across the APS” (s.57) and that the Secretaries Board is “to take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS” (s.64)

The language of stewardship suggests administering, nurturing or managing something that has an enduring existence independent of its stewards. In public administration, it is something distinct from the everyday operational responsibilities or core tasks of the public service’s activities; it is about maintaining the culture and capacity that will guarantee that public servants will be able to meet the demands on them into the future. New Zealand Treasury Secretary recently described it as “preparing for what’s on the horizon” (Makhlouf 2017); former Australian departmental secretary de Brouwer referred to “what we can do to ensure that the
public service remains effective and influential in the next decade and beyond” (de Brouwer 2017).

For the APS, stewardship involves preserving the future capability to implement all of the values set out in the Act. Some key aspects identified in the literature and by practitioners include:

- Ensuring that the APS maintains an ‘institutional memory’ (Corbett et al 2017; Rhodes and Tiernan 2014; The Treasury 2011, p.vii), so it is able to do things like have a sophisticated understanding of stakeholder views, and to place current policy imperatives and service delivery requirements in a historical context, with an understanding of what previously has worked well and what has not, and why (Richards and Smith 2016; Watt 2012).
- Ensuring capacity to respond to changes in policy direction, not merely to deliver whatever is being asked for at a given moment. This includes maintaining the ability to serve future governments.
- Manage priorities and resources (particularly staff) in sustainable ways (The Treasury 2011, p.vi)
- Leading the development of relationships with, and skills of, ministers and their staff, to ensure that there is always a trusted relationship between the executive and its bureaucratic advisors. This means demonstrating effectiveness through quality advice that is ‘on point’ (Russell 2014).
- Demonstrating behaviour and communications that embody the APS values, including when they are under pressure, so that all APS employees have confidence in their leadership and purpose. As was noted in the Strategic Review of Treasury, “Leaders and managers, in particular, need to model and be accountable for appropriate behaviours” (The Treasury, 2011, p.vi). Similarly, when retiring from the APS, former secretary Peter Varghese referred to how “ultimate responsibility for ensuring that the public service does not cross the line however rests with public servants and particularly their leaders”. (2016)
- Supporting innovation and fostering development of new capacity that reflects the needs of government and parliament, as the environment changes in which politics and public policy are conducted (see, for example the Moran Review in 2009. Lindquist 2010).

A key stewardship challenge is that despite being constitutionally recognised as an ‘executive in waiting’, Oppositions have comparatively few resources on which to draw in preparing for government. Prime Ministers determine the allocation of staff and other supports to Opposition parties – they have a vested interest in keeping them relatively lean. Further, in contrast to the American system, support for the transition to government is negligible. Instead, Opposition parties rely on external advisers whose expertise and support they are understandably keen to maintain in government.

The premium on implementing election commitments as promised during the campaign raises concerns about Oppositions’ lack of access to public service advice during their preparations to make the transition to government. Addressing this asymmetry may support better, more informed campaign promises; policies that are well designed and capable of being implemented on winning office. This might be assisted if the Commonwealth, now the only Australian parliament not to have adopted fixed terms, were to do so.

One question that is rarely addressed in the literature, is whether the APS, particularly secretaries, is the institution best able to provide all aspects of stewardship. While there is much discussion of what kinds of stewardship are required, almost nothing has been written about how best to distribute these responsibilities across different institutions.
Ensuring stewardship of government – particularly the relationship between public service, the political class and the public – can potentially involve very different kinds of approaches. All have potential to distribute responsibility in different ways. Examples of how stewardship can be ensured in other ways include:

- Sharing with other institutions in civil society (like universities and think tanks) responsibility for communicating policy ideas and discussion in the public arena (de Brouwer 2017)
- Providing a range of resources that support policy thinking across parliament, including the Opposition. These include analysis and advisory resources in research services, budget or fiscal information units, and non-partisan support staff of cross-party parliamentary committees (Chohan 2018, Holland 2006).
- Making statutory authorities stewards for some aspects of public service capacity, outside the reach of executive decisions. This is most obviously the case with public service commissioners. However, other statutory roles that provide stewardship of capacity independent of the executive can include auditor generals as providers of audit and assurance services to both parliament and executive (Macmillan 2013); anti-corruption bodies and ombudsmen, particularly where their role includes advising on good practice (not only complaints investigation) (for an example re ombudsmen, see Dragos and Neamtu 2017).
- Establishing not-for-profits or partnerships with external institutions as stewards of leadership and management development for the public service (such as ANZSOG itself).

What is lacking is a systematic consideration of how best to institutionalise stewardship in the context of the evolving relationship between public service and government outlined at the start of this paper.

**Prodding questions**

12. Which of the APS’ stewardship responsibilities need most support to match the evolving relationship between APS and government and the challenges this is producing?

13. Are Oppositions adequately supported in their roles as ‘executives in waiting’ as envisaged in Westminster-style systems? What approaches might support development of appropriately professional and impartial relationships between Opposition and the APS, while balancing its obligations to serve the government of the day?

14. Should some of the stewardship needs be met through the development of new institutions, or strengthening of existing ones, that lie outside the APS itself, rather than continuing to place this responsibility primarily on Secretaries?
Endnotes

i Patapan, Weller & Wanna’s (2005) comparative study of countries that form part of the 'Westminster family’ identified characteristics that were common to all. These were:
• The concentration of political power in a collective and responsible cabinet
• An opposition acting as a recognised executive-in-waiting.
• Parliamentary sovereignty with its unity of the executive and the legislature.
Interestingly, Patapan et al did not include majoritarian government or the two-party system as features, despite these being defining features of Westminster-style parliaments.

ii In their book *Scarcity: Why Having Too Little Means So Much*, Sendhil Mullainathan and Edlar Sharif argue that ‘scarcity’, whether of time or money, tends to focus the mind on immediate challenges. They describe a ‘scarcity trap’ where people experiencing any form of poverty become intently focused on their urgent needs. Senior Cabinet ministers who have served in recent governments report that despite their best intentions, their time was almost completely dominated by politics. One reported: ‘It’s the nature of modern politics’. Another noted ‘In contemporary political times, the political currents shift and swell constantly during the day with social media and 24 hours coverage on television and radio. Prime Ministers, Ministers and their staff are overwhelmingly consumed with these currents, monitoring developments, coordinating responses and strategy, doing press conferences, interviews, maintaining overview of social media commentary. There is a belief that the political contest must be engaged with all day, every day’.

iii While academics debate whether NPG offers a description or an ‘ideal type’ (see e.g. Boston 2012), its features resonate strongly with Australian experience. That Diamond (2019) has adopted Aucoin’s four dimensions of NPG to characterise developments within the British central executive, underscores the convergent trends bearing on the political-administrative relationship.

iv But see Maley (2018b) who traces the parliamentary experiences that provide developmental pathways for ministerial aspirants.

v The term has been used in a different way overseas, to mean facilitating policy-making in a decentralised or devolved system of administration. See Hallsworth 2011.

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