



SUBMISSION TO THE INDEPENDENT REVIEW OF THE APS

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Thank you for the opportunity to provide a submission to the Independent Review of the APS. I am a Senior Lecturer in Political Science at the Australian National University and for many years I have been researching the work of ministerial staff, ministers and the nature of political-administrative relationships in Australia.

For the past three years I have been undertaking an ARC funded research project about the movement of staff between the federal public service and ministers' offices and it is this research that I draw on in making the submission. The research is based on interviews with federal ministers, senior public servants and ministerial staff, as well as document analysis and quantitative data.

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Public servants and ministers' offices

Ministers in the study expressed great respect for the work of the public service and praised the support it provided to them. They also felt the role of ministerial staff was important in evaluating advice from the department and providing alternative views to it.

Australia is unusual compared to many other countries in the fact its federal ministers' offices do not sit within the public service but are institutionally separate. The consequences are that interaction between ministers and departments occurs across institutional boundaries and there is the potential for distance and distrust to exist in these relationships (Maley 2018). The ministerial office and the public service embody different values: the minister's office is defined as a partisan organisation while the public service is definitionally apolitical. This means if a public servant wishes to work as a ministerial adviser they must take leave without pay from the public service while they do so, suspending the requirement for them to behave apolitically.

Public servants can be present in federal ministers' offices in three ways.

First, they may be employed as Departmental Liaison Officers (DLOs). Each office has several DLOs who are public servants and represent the department in the office. Their role is mainly a processing one, ensuring briefs, correspondence and submissions move effectively between the department and the minister's office. They also carefully manage the relationship and perform an important liaison function. In this role they remain within the public service and are constrained by a requirement of impartiality.

Second, public servants can be seconded from the department to work for short periods of *up to three months* in the minister's office. These short term placements are often used to fill vacancies in the minister's office while recruitment is underway. These officers provide policy advice and remain under the Public Service Act, which requires them to be impartial.

Third, public servants can take leave without pay from the public service to be employed by ministers as ministerial staff under the *Members of Parliament (Staff) Act 1984* (MOPS Act). The appointments are not merit-based and they are freed from the requirement to be impartial. Staff are entitled to return to the public service on the completion of this work, at the level they held prior to moving to the minister's office.

Ministers and senior public servants see the mechanism which permits public servants to work as ministerial staff and then return to the public service as both beneficial and fair. Ministers see it as a way to bring specialist knowledge into their offices, and a way for public servants to gain valuable experience working in a political environment, giving them a better understanding of the world of ministers and parliament. Ministers see considerable benefits for themselves when these staff return to departments because of their greater understanding of the needs of ministers. There is also recognition that cross pollination occurs, with political staff learning more about how the department functions and about public service and governmental processes. Having public servants working as ministerial advisers is also seen as beneficial by the public service itself. It represents one of the few opportunities for senior public servants to serve in positions physically close to ministers.

However while the practice is seen as positive, at the moment it occurs in an ad hoc manner and it carries risks. Whether public servants are employed as ministerial advisers depends on the particular needs and preferences of individual ministers at any time. Further, when public servants return from a period of time working in a minister's office they can face a perception that they are 'tagged' with an association with one political party grouping. The process of return can be difficult and is managed informally within departments (Maley 2017). There are therefore issues of demand and possible reluctance by public servants to take up these opportunities due to perceived risks.

Possible solutions

One option could be to allow senior public servants to be seconded into ministers' offices for periods longer than 3 months (from 12 months to a maximum of 2 years). They would be similar to DLOs, but playing roles in policy advising, rather than liaison and processing. This could be framed as part of standard training for senior public servants and a way of enhancing collaboration between ministers' offices and departments. As the officers would be seconded by the department, this would not rely on demand from ministers. Because the staff would remain under the Public Service Act they would avoid being 'tagged' with a partisan attachment. As seconded officers they would be required to remain impartial and governed by the APS Code of Conduct. This would clearly distinguish their role from those working in ministers' offices under the MOPS Act.

One issue with this would be the need to clarify the nature of this role and its boundaries. It is common in other countries for senior civil servants to work in ministers' offices providing policy advice and remaining apolitical. However it would be important for federal ministers and their staff to understand the expectations of this role and how it could contribute to, and relate to, their work. Ministers may not see the need for such a role. However they may appreciate it as a tool for increasing the skills and capabilities of senior public servants. There would need to be consultation with ministers and chiefs of staff in developing this idea.

It would be important that this not lead to a weakening of the critical relationships between ministerial staff and senior departmental officers. It is vital that this position not displace the lines of communication between ministerial advisers and departmental staff.

It would also be undesirable if the creation of this secondment opportunity led to a greater reluctance for public servants to work under the MOPS Act, or if such work began to be seen as more politically risky than in the past.

Making the movement of public servants into MOPS positions and back a more formal process than it currently is may help to dilute the risks involved for staff undertaking the transitions. It is important that heads of departments encourage staff to take up MOPS positions and work to protect them on their return from ministers' offices (Maley 2017). My research shows this does not always happen at the moment.

The institutional separation of the minister's office and the department in federal government makes the movement of staff between departments and ministers' offices important for effective collaboration. It may be time to consider amplifying the opportunities and making the transitions more formal in order to reduce the risks involved and to enable more staff to undertake this valuable form of cross pollination.

Transparency

Another issue which can be addressed by the Review is the secrecy surrounding staff in ministers' offices. The names of staff in federal ministers' offices are not published in Australia, yet in other countries these names are publicly available (eg UK, Canada and most European nations). I recommend that the names of ministers' chiefs of staff be listed in the online government directory, alongside the names of senior federal public servants (www.directory.gov.au). This simple step would give greater legitimacy to the role of senior ministerial staff and also recognise the fact they are taxpayer funded positions which are of importance within government.

The current secrecy surrounding these positions contributes to the risk faced by public servants, discussed above, and to the loss of trust in politics and politicians. There is no reason for this secrecy. Greater transparency would show that these are legitimate positions within our governmental institutions and it would contribute to public confidence in the work of ministers and their offices. This could be a transformative and positive step in recognising the place of ministers' offices within our system of government.

References

Maley, M (2018) 'Understanding the divergent development of the ministerial office in Australia and the UK', *Australian Journal of Political Science*, vol 53 issue 3 pp 320-335.

Maley, M (2017) 'Temporary partisans, tagged officers or impartial professionals: Moving between ministerial offices and departments in Australia and Canada' *Public Administration* vol. 95, issue 2 pp 407–420.