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TRANSCRIPT OF PODCAST

Work with Purpose

EPISODE #112

A CONVERSATION ABOUT RETHINKING
REFORM WITH ANDREW PODGER AO

TRANSCRIPT

David Pembroke:

Hello, everyone, and welcome once again to Work with Purpose, a podcast about the Australian public sector and how it serves the Australian people. My name is David Pembroke, thanks for joining me. As we begin today, I'd like to acknowledge the traditional custodians of the land on which we are meeting today, the Ngunnawal and Ngambri peoples, and pay my respects to their elders past, present, and emerging, and acknowledge the ongoing contribution they make to the life of our city and this region. I'd also like to acknowledge the custodians of all the lands from where anybody listening to this podcast today is joining us from.

So one of the objectives of IPAA ACT is not only to share practitioner advice and stories, but also to highlight research and academic discourse on public administration here in Australia and overseas. Against the backdrop of the Robodebt Royal Commission Report and ongoing APS reform, former Australian Public Service Commissioner and Senior Australian Public Servant, Andrew Podger AO, published a discussion paper outlining more measures in areas where the public service should shift the dial. Andrew's paper received quite a bit of media attention at the time as he called for APS reform to go further, and to return to some of the key outcomes of previous reviews. His paper was also endorsed by a long list of public sector leaders, and it's raised a number of topics that are questions for our current public sector leadership, commentators, researchers, and many others who are grappling with many of these challenges across jurisdictions in Australia.

Well, Andrew Podger, as I said, is a senior and highly respected Australian public servant, and he's also a honorary professor of public policy at the ANU. He spent 37 years in the Australian Public Service in a range of portfolios, but he specialised mostly in social policy and public management. He was the secretary of the Australian Department of Health and Aged Care from 1996 to 2002, and also headed up the Departments of Housing and Regional Development and Administrative Services, and he was the public service commissioner from 2002 to 2004, and he was also IPAA's national president from 2004 to 2010. His most recent and extensive paper, as I said, raised many topics that are part of the ongoing discussion in to public administration, and today we do look at some of those key suggestions.

Now, this episode covers quite a bit of ground, including public service reform, merit in the APS, stewardship and values, the tenure of secretaries, relationships with ministers, conflicts of interest, and a whole lot more. It is a special conversation hosted by our special guest presenter, Andrew Metcalfe AO, who is the national president of IPAA, and known to many of you for his long extensive career in the Australian Public Service. He was most recently the secretary of the Department of Agriculture, Fisheries and Forestry, and he was also Australia's director of biosecurity. Now, I won't go through all of Andrew's extensive roles that he has held in the Australian Public Service other than to say, again, another of our most respected senior public servants. So I'll hand it over now to Andrew Metcalfe, and his conversation with Andrew Podger.

Andrew Metcalfe AO FIPAA:

Well, Andrew, it's great to be doing this podcast with you, and particularly on such an important topic as the Australian public sectors and public sector reform. Before we get into your suggestions about further reform in the Australian Public Service, I'd really like you to explain, perhaps in a bit more detail, what prompted you to write the discussion paper that you've published, and to seek to influence opinion in this area.

Andrew Podger AO:

I guess it comes from a long concern about a deteriorating capability within the public service. It's been raised in a number of inquiries. You can go back to the Moran Report, the capability reviews of that era, the Thodey

Report, but there have been two major drivers of the problems in Australia. One is what I would call politicisation, that is excessive control from the political end of the public service. You see that in things like there's less emphasis on evaluation, less emphasis on publications and research within the public service, as well as controls from ministerial staff, but the impact has been on capability. The other driver has been the extent to which we use external supporters. Now, that was originally for efficiency reasons, but we've gone too far, and those two drivers, politicisation and externalisation, we've gone further in Australia, a lot further in Australia than the other anglophone countries.

So that's been behind it, so I put in submissions to those reviews about it, and the Albanese government came in with some promises to take some action, particularly in the light of the nadir of the whole system with the Robodebt fiasco. But the actions taken so far have not been as substantial as I was expecting, and so I'm trying to see if I can encourage people to go back to some of the more systemic issues driving these problems in the public service, and see if we can get more substantial and comprehensive reforms. I think there's some appetite for that within the government, but they've been a bit slow, and so I'm trying to encourage them to take a little bit more action.

Andrew Metcalfe AO FIPAA:

We'll come to Robodebt fairly soon, but from what you're saying, it's really very much motivated by a long-term sense of stewardship, of responsibility for the public service and public service leaders to ensure that there is the capability, and the ability to properly serve government of the day, but also a willingness from governments to be served in that particular way. I must, of course, declare an interest in that having been, like you, a long-term departmental secretary. I also worked for some years in the consulting world, and consulted back in the government, and of course have been a ministerial chief of staff, and so I've seen the system from all of those different perspectives. But when I had the opportunity to return to the public service in 2019, and to, again, become a secretary, I obviously was delighted at that opportunity, but let's look at the broader issue of merit that features across your recommendations in your discussion paper. Could you perhaps tell us why did you choose merit in particular as one of the focus points for your work?

Andrew Podger AO:

You're right, Andrew, merit is an underlying theme throughout the discussion paper. My strong impression is that there's been a dilution of emphasis on merit over the last 30 years plus, but people have seem to have forgotten that merit was the original major factor in establishing a civil service in the 1854 Northcote-Trevelyan report. It was all about merit. There were subsequent reforms in the US with what they have as the Pendleton Act of the 1880s, and it again was about merit. It was about the need for a professional, apolitical, merit-based public service, but we have lost that emphasis. It began in an unintended way with the reforms of the 80s, so the Public Service Board was replaced by a much less powerful Public Service Commission. There were good reasons around that, and I think everybody at the time had in mind that we're going to put a lot more emphasis on management for results, but what we didn't appreciate was that that emphasis actually reduced the emphasis on good processes, including merit processes.

I saw that go even further with the changes to the ACT in 2013, where merit was taken out of the values. It was still included in the employment principles, but it's not number one, it's number three, so it's not given the same fundamental emphasis. Then the Merit Protection Commissioner, who had been one of the members of the executive of the Public Service Commission became a bad one in Sydney, much less powerful, much less involved, and indeed the job's been vacant now, I believe, for 12 months. So a whole series of things which have diluted this emphasis on merit, which I believe is fundamental to the public service. So I'm trying to see how merit can be given a lot more weight, not only within the public service itself, but in appointments to boards, and things of that sort, that we have less emphasis on political decision-making, and more emphasis on merit-based appointments.

Andrew Metcalfe AO FIPAA:

We might discuss that as we work through some of the other areas for discussion in this podcast. I'd like to turn to the values of the Australian Public Service, and you've already mentioned the Robodebt Royal Commission, and it of course, the Royal Commission noted a lack of understanding on the part of some of those involved in the APS role, principles, and values, and of course since that time, the government has introduced stewardship as a new values as part of the legislation. In your paper, you say that the APS should instead review its articulation of APS values, what does that look like to you, and how do you think that that would improve the performance of the public service?

Andrew Podger AO:

You're right to pick up that thing from the Royal Commission. As you know, I put it in a report at their request, and I talked about that in my report as well. The government's put stewardship in the values, my concern about that is not that stewardship is not important, quite the reverse. My concern is by making it a responsibility of everybody, you dilute the responsibilities of secretaries. The responsibility of secretaries is very clear cut, it's about maintaining the skills of their organisation, making sure they've got data, that they've got corporate knowledge, making sure they've got structures and processes which establish that capability, making sure they've got relationships with academia or outside groups which maintain all of that is the responsibility of senior management, and that's where it ought to be. By making it a value for everybody, I'm not sure that ... that that might just dilute the matter.

But my concern in the report to the Robodebt Royal Commission went a lot further than that, and it picked up a number of other things that came out of the Royal Commission investigations, in particular there's confusion over about the obligations of the public service towards the public. Now, most of you know one of the values in the ACT at the moment is commitment to service, but if you look at the way that's phrased in the ACT, and in the commissioner's directions, that commitment to service is as much about commitment to service to the minister as it is about commitment to the public. One of the things that clearly came out of the Robodebt Royal Commission was that some senior people in DHS did not understand their commitment to the public. So what I'd like to see more clearly enunciated in the values is what are our roles, our responsibilities, our relationships, first of all, with the government at the parliament, then with the public, and then in the workplace.

Now, if you look at it in that way, you would not have commitment to service being an area for service to the minister, that would be separately talked about, that there is a democratic responsibility of serving your minister, but we are a public service and there is a commitment to the public, an associate that is the impartial administration of programs, all those sorts of things. So I was looking for a way of phrasing those values, which more clearly are framed around Westminster principles that people could understand. We went to a more simple version of the values, but we lost their substance. What I'm looking for is if we have it clearly around the Westminster principles and about those relationships, we are able to clarify for people that it wasn't just that they got wrong what they were looking at in the values and principles, but the values and principles are not well-phrased.

The Thodey report had one way of doing this, I think it was a very complicated way. The way I'm proposing it, I think, is a very much clearly structured way, and one of the advantages of the structure I'm proposing is you can then clarify using that structure the different values of some other parts of the Commonwealth public sector. For example, ministerial staff. Now, they, like the public service, are within the executive arm of government, and therefore they are accountable through ministerial responsibility in the same sort of way as the public service, but they can be partisan, whereas the public service is not. So if you use those things, you could clarify both the similarities and the differences. If you are talking about electoral staff, they're in the legislature, so their accountability isn't through ministerial responsibility, but you have clarified that their accountability is to their employing MP, and through them to the presiding officers of the parliament. So if we can have a structure which clarifies the role of the public service, but then can clarify the role of other people, and if we have that clarification, relationships can work much better.

Andrew Metcalfe AO FIPAA:

Yeah, that is certainly an idea really worth exploring. So I'd hope that this conversation and subsequent conversations will lead to an open debate and discussion about how values can best be framed, and how they can be best applied to ensure excellence in public service, which is really what we're talking about here. I recall, and you'll recall because you were there at the time when I was appointed the secretary of Immigration, it was a very difficult time for the department in the wake of the major scandals involving immigration detention, and I was asked as the new secretary to really lead a reform job. We wanted some values or some themes to really sum up what the Department of Immigration needed to be doing at that time given what had happened, we came up with three broad principles. One was that we had to be fair and reasonable in the way that we dealt with clients because clearly that had not happened in the past. That goes to your aspect of empathy and understanding employees.

We had to be open and accountable because the department had very toxic relationships with accountability bodies such as the Auditor General, and the Human Rights Commission, and the Ombudsman, and so we really wanted to repair those relationships, and to be open, and if mistakes made, to be clear about what we were doing and how we were going to fix them. We had to have staff who were well-trained and well-supported, so ultimately the staff themselves had the tools, and the systems, and the frameworks to do their jobs properly. We customised some principles or some values because of the particularly reform job that was required at that time back in 2005.

Andrew Podger AO:

Before you move on, Andrew, when I was commissioner, I talked to a number of heads of agencies, and I made it clear to them that they must uphold the values in the Public Service Act. That's very clear cut, but it was understandable that they would give particular priorities depending on their function.

Andrew Metcalfe AO FIPAA:

Yes.

Andrew Podger AO:

So a Centrelink would clearly have to give considerable priority to its relationship with the public and with its clients, and they would look at those values and give a particular weight to those. It must uphold all the values, but it's understandable, depending on which function you're performing, that some of those values are going to be particularly important to you and your organisation. But I was always uneasy about those who wanted to set up their own sets of values, because I think that leads to some confusion rather than making sure everybody understands they must uphold the values that are in the ACT.

Andrew Metcalfe AO FIPAA:

Yeah, and that's, I think, a really useful point to further the discussion as well because of the breadth, and difference amongst the hundreds of public sector organisations. While there are some core values applicable to all, how can we find a way that a particular agency doing quite a specific thing could ensure that it has developed culture and values that are appropriate for its particular task? Culture is another issue that we might talk about at some other stage because culture is a fascinating thing. The way that we do things around here, as the big departments say could well have many different cultures, and so how can you have values, behaviours, and other things that bring people together into consistent ways of operating? But that might be a topic for another discussion down the track. But look, I'd like to now move to the issue of secretaries' tenure. We talked a little bit about merit at the beginning, but particularly in relation to secretaries.

Andrew Podger AO:

The concern I've got about this is not just about merit itself in the rewards and penalties that are within the legislative arrangements. One of the things that comes out of Robodebt, that comes out all the other scandals of recent years, whether it be sports rorts, or car parks, or multi-ministries advice, or a number of ANAO reports about poor record keeping, and all sorts of things like that, is that the penalty for doing the wrong thing, not revising on the lawfulness of something, not keeping proper records, the penalties for doing the wrong thing are pretty minor. The penalties for doing the right thing that ministers didn't want to hear is pretty obvious, that you can have your appointment terminated, or you certainly may not get reappointed at the end of your current term.

There aren't many penalties for doing the wrong thing, and I think we've got to try and get the balance right again. So I'm suggesting that we, in fact, go back to the 80s, where secretaries have tenure like all other public servants, and like all other public servants that doesn't mean they guarantee the job forever. They can be made redundant. They can be sacked because of poor performance, or because they're sick, or whatever else they might be, but there is expectation that they will move every five years or so at the end of working in a particular job. Reasonable effort will be made to find them an equivalent job, and the expectation is that they will get another job rather than be facing the prospect of not getting reappointed at any time.

So I'm trying to get that balance right. Now, it doesn't mean that they're guaranteed that job, if the relationship with their minister doesn't work well, then they must move. But if they move in those circumstances, every effort will be made to find them an equivalent job, unless there was serious issues about their performance. So that's where I'm coming from. Then, performance management should be looking at their behaviours, including their behaviours in abiding by basic principles such as record keeping, and not getting yourself into trouble with the ANAO and so on, that those things you'd be held responsible for, not just how well you've supported your minister, not doubting for a moment that that's very important.

Andrew Metcalfe AO FIPAA:

Do you see a different or a stronger role for the Australian Public Service commissioner in that framework?

Andrew Podger AO:

Absolutely. I think the commissioner should be involved in appointments processes, at the moment that's done by the head of PM&C, who must consult the commissioner, but I'm proposing the two of them do the report jointly. I think we need to see the commissioner as the professional head of the public service. Why is that important? Well, it most clearly becomes important when we've had a number of secretaries of PM&C appointed because of their close relationship with the prime minister at the time, and not necessarily seen as totally apolitical. What happens in that case is that at a change of government they may need to resign. We had that with Phil Gaetjens. We had that with Max Moore-Wilton. Indeed, we even had it with Peter Shergold very shortly afterwards, and then what happens is who helps the incoming prime minister to work with the public service to help manage the transfer? Is it a deputy secretary of PM&C? This is crazy.

If the head of PM&C is not going to be that ongoing apolitical appointment, and we're seeing that that happens at the state level as well, then the public service commissioner should be seen as a professional head. It doesn't mean that they then run everything, because the head of PM&C will be, and I've talked about maybe a term like coordinator general, but basically the operational head who marshals the resources for the government, the prime minister for the cabinet, that's their job, but the professional head is the public service commissioner. Now, with that additional role, Thodey recommended, and I very much agree with him, that the appointment of the commissioner should be subject to consultation with the leader of the opposition.

I was disappointed that that didn't happen in the most recent appointment for commissioner because I think that would've set a real message to everybody about the commissioner. But Katy Gallagher, in her statement at the end of last year, seemed to be saying that she was going to head in this direction. That would be a good

move to clarify that the commissioner is the ongoing professional head of the service, and will play a bigger role, including in performance management.

Andrew Metcalfe AO FIPAA:

Yeah. You might just want to elaborate a little bit about the secretaries tenure, how you think that that could or may or may not affect relationships between ministers and secretaries. I was a secretary under numerous portfolio ministers, and five different prime ministers. I was appointed by five, and I was sacked by one prime minister, and the relationships with each of those ministers along the way was different, but of course we've seen some real breakdowns in relationships between ministers and secretaries as well. So were secretaries to have some form of tenure, making it more difficult to dismiss them, what do you think that might do to that relationship at the very highest levels of government?

Andrew Podger AO:

Let me make a few remarks. First of all, as I said before, if the relationship between a secretary and a minister breaks down and can't be fixed, the secretary's got to move. There's no question about that, that the minister does not have to put up with a secretary that they don't trust and get on with, and make the relationship work, first point. Second point, in the New Zealand system, which is a lot more radical than I'm proposing, in the New Zealand system the public service commissioner actually is the employer of the secretaries. I remember talking to the then public service commissioner when I was commissioner here, and he made the point, notwithstanding the very obvious institutional difference, when he made an appointment of a secretary, the success of that was based upon that person being able to form a constructive partnership with its minister.

So just because you've got a more independent process, the success of that independent process is based on it actually working, that a minister and a secretary get on, and if it doesn't work, well, then a secretary must be moved. But when the secretary is moved, it doesn't mean the secretary gets sacked, that there is every effort ... if there's no issue of performance, it was just a matter of that the chemistry didn't work, then you find that secretary another job somewhere else. It might be a high commissioner job. It might be a statutory job. It may be another secretary job, but there is every effort. Now if it proves it can't be done, well, then, yes, the secretary will go, and there will be a redundancy payment, but the expectation would be that we'll find you another job, and you're not therefore seen as rewards and penalties about what you do to be most responsive to your minister.

Andrew Metcalfe AO FIPAA:

You've already talked a little bit about ministerial staff, but perhaps you could talk a little bit more about a code of conduct for ministerial staff being included in the Public Service Act, or perhaps in some other act, the ministers of Parliament Staffing Act, for example. Again, how that code of conduct may impact on relationships between public service and ministerial staff.

Andrew Podger AO:

A couple of things. First of all, there is a code of conduct for ministerial staff now, which is issued by the special minister of state, and it's a useful document, but it's not a statutory requirement and is open to any numbers of interpretations. Interestingly, putting it in law was a recommendation of Thodey, of the Jenkins review of behaviour in the parliament house, of the Robodebt Royal Commission, yet it wasn't in the most recent changes to the members of Parliament Staff Act. Now, the changes or amendments of Parliament Staff Act that came through earlier this year were very constructive and positive. They were very clearly aimed at a more professional approach to ministerial staff, and to electoral staff, trying to see that they would be appointed around a clear process where you identify what the duties are, a proper selection process, there'd be training arrangement, all of those things were put into the legislation, which I strongly support because I

think we need a more professional approach to the staff or members of Parliament, both ministerial staff, and other staff or members of Parliament.

Indeed, that can give them some protection against inappropriate behaviour by their employing MP. So all those things were right, but I was surprised they didn't put the code of conduct in there when everybody said it, because the code of conduct in legislation gives it a lot more weight, and it means therefore that there are processes for sanctions that you can look at. Now exactly how they would operate is not clear, but I suspect that the answer to that is to work with the parliamentary service commissioner or the new PWSS that's been established within the Parliament, but there are other ways in which you could look at that, but I think that would be important.

In all of this, let me make it clear, ministerial staff are hugely important these days in the system, and they can be extremely positive in that relationship. But I think we've seen, under some governments, that they see their role as helping to control the public service and minimise political risk, whereas I think their role really is to help make sure the relationship between the minister and the public service works well. If they thought of it in those terms, obviously adding in their political advice and so on in the system, but if they saw their role as a more how do we make this relationship constructive and work for the good of the government of the day more generally, I think that would be good.

I mean, you've been in that role. You may have read Alan Behm's book a couple of years ago, where he wrote a book about the role of the chief of staff. I think that was a very positive role because he talked about the importance of the secretary being, as it says in the ACT, the primary official policy advisor to the minister, and therefore the people in the office, one of their roles was to make sure that worked and worked well.

Andrew Metcalfe AO FIPAA:

Yes, we could have a much longer conversation, I suspect, about the different approaches taken by some ministerial staff, and some ministers, and some secretaries. It's a dynamic that could be complex and delicate at times, and if it works well, it is terrific, but if it doesn't work well, it can be a very difficult place to be.

Andrew Podger AO:

It can be very, and I think some of the things that have happened over the years have made it more difficult. I think the expansion of the number has made things more difficult. I think many more of them are young people who see themselves as apprentice politicians rather than seeing their professional role in the office. One of the things I found in my time that worked well to make the relationship improve, was having as my senior departmental liaison officer somebody who was very able, a little bit more senior than might otherwise been, somebody who could ring me without hesitation, who wouldn't feel, "Oh, I mustn't ring the secretary," that they would immediately ring me if there was a problem, but also could demonstrate to the minister the calibre of the people I had within my department.

Andrew Metcalfe AO FIPAA:

Let's move to some other areas that you cover in your paper as well, and particularly you talk about the proportion of appointments of non-professional career diplomats rising from 4% to 8%. You've also talked about statutory appointees as essential problem has been that the greater the scope of ministerial discretion, the more likely it has been for appointments to be politicised. So interested as to your thoughts around those very senior roles as agency heads, but also our diplomatic service is such an important part of our work as well.

Andrew Podger AO:

When we talk about the statutory positions, first, Lynelle Briggs was asked to do a report and it hasn't been released yet. She reported last year, and she was writing a report about what the process looked like. It'd be nice if we could see that report, and I don't want to put words into her mouth, I'm hoping my suggestions are

reasonably consistent with her own, but I don't know that. I'm suggesting that there be a process of a formal selection arrangement based on merit, and that the ministers would be required to draw on the short list or the particular recommendation from that process. If they had somebody else in mind, they should put that name into the system to be evaluated in the system, and if a short list was given that didn't have that name, well, then they couldn't appoint that person.

The short list would be, "Here are the people who are suitable, and capable and could do the job," and they might even say, "and this is the best." The minister would be at least required to go through the short list, and if there was a very firm recommendation of only one, the minister would be required to accept that. You would have a rank there, which is more clearly merit-based. It's the advance on the ABC rules, the ABC rules to allow the minister to come up with another name afterwards. Now, under this government, they've actually abided by what the committee has given them for board appointments and so on, but my proposal is that the government would be required to abide by them, and if they had another name, just put that name into the process.

The problem for ambassadors and high commissioners is you can't actually do it quite like that. It doesn't quite work that way, but there is no doubt that there's been an increase in number of political appointments over recent years to ambassadors, high commissioners, or consuls or whatever. The problem with that, A, is you're getting people who may not be the best, and B, it starts to become a job for the boys type arrangements. It's compensation for having lost out in the past election or whatever.

Now, there are jobs from time to time where a former politician, a former minister has got exactly the sorts of attributes you want. We've had some very good ambassadors in Washington who have been former ministers. The nature of Washington, the way it works on the Hill, as well as with president, somebody who has got the skills in the political world can add a lot of value. So it's not as if I'm saying there shouldn't be any, there are a number of occasions they, in fact, will be the best, but if you have more than a small number, the chances are it turns into jobs for the boys, and that's what we've got to resist.

Andrew Metcalfe AO FIPAA:

Sure. Let's move to the issue of consultants. This has been a very topical and challenging issue. The government came to office wanting to significantly reduce the reliance on consultants that are developed under the previous government, and of course there've been, subsequently, the issues around ethical standards and behaviours of at least one of the major professional services firms in their tax division, not of course in the government services area. But again, your paper focuses on this as an area for reform, and so I'd be interested for you to expand on that.

Andrew Podger AO:

I've said before one of the factors I think affecting the capability of the service has been the extent to which we've used external labour, and it has led to some hollowing out of expertise in the system. Where it's been particularly bad is when we've used contractors in what are really ongoing jobs. One could actually ask a constitutional question as to whether that's constitutional because, in fact, we're meant to have employees under, I think it's section 6 or 7 of the constitution, who are under an arrangement approved by the Parliament, which of course the Public Service Act is precisely that. So somebody who's in a job that's effectively an ongoing employee type job shouldn't be a contractor, and we do have contractors who are in SES type jobs who have been given SES type responsibilities and oversight, which I think is just plain wrong.

I think the extensive use of them is also in this hollowing out, we've lost our capacity to be informed by it, so we're not quite sure whether we're actually getting value for money when we go out purchasing because we're not as good as we used to be in purchasing our agents. So this hollowing out has got ... We started a paces of competition and efficiency gains, and I look back in the 80s and 90s, and there were efficiency gains from using competition, but we've taken it so far that we're starting to lose those efficiency gains, and indeed

leading to other problems in the system. That doesn't mean you don't use contractors and consultants from time to time, but you'd certainly only use them where you know its value for money, where you've got a very clear understanding in why you are doing it. So it's not going to be your core business, it's going to be where you've got a one-off requirement or a specialist requirement, which doesn't justify you having that expertise in-house on an ongoing basis.

So you think more carefully about the occasions when you use it, or whether it's a particular specialist expertise you can't afford to have, but you've got to have a sufficient of that to be able to be a good reformed buyer. So I'm looking for ways in which ... The government, I think, has done some sensible things in this area, but I'm suggesting we could tie that down a bit more within the legislation.

Andrew Metcalfe AO FIPAA:

Yeah. Six years being a partner in professional services from 2013 to 2019, and then returning to being secretary of the Department of Agriculture, Water, and Environment, I came back to a very interesting situation where, of course, the government began running significantly expansionary budgets because of COVID, and the need to keep the economy running. But at the same time, there was an absolute refusal or almost a virtual refusal to employ additional public servants, there was a very strong philosophical position. So more had been done, and there was now ability to employ people on a permanent public service way, and therefore the only left was to employ people under contracting or consulting type arrangements. You're absolutely right.

Andrew Podger AO:

Yeah. To correct this, Andrew, it's going to take quite a lot of effort. For example, it's not only rebuilding, but what hasn't happened yet is a reconsideration of public service remuneration of what we pay specialist experts. We're not going to get in-house IT expertise until we're paying nearer the market. So I very much encourage the commission to rethink what they're doing on a remuneration, start to think about what the market requires for particular areas of expertise if we're going to rebuild that expertise.

Andrew Metcalfe AO FIPAA:

Yeah. Just on that, it's interesting because traditionally it has been IT skills, so it is a real issue on how we can ensure that we've got the right capability, and the right people, and that we need to be growing up about how we have conversations about how they are properly remunerated.

Andrew Podger AO:

That's right. Couldn't agree more.

Andrew Metcalfe AO FIPAA:

Let's talk about the issue then of hierarchy and classifications. Now, the world has changed remarkably since 1975, and your paper of course reminds us that in 1975 there were 25 SES Band 3 roles, deputy secretary roles. Now in the public service of about 170,000 people, there's 150 deputy secretaries. I plead guilty in the Department of Agriculture, Water, and Environment, I had seven, but I had five ministers, and deputy secretaries who were effectively working directly to ministers, and I know that some of the other mega departments, climate change, environment, energy, infrastructure, et cetera, defence, of course, these are big complex organisations. So while there's been growth, there's also been growth in complexity. Again, I'd be interested to hear more from you about your views in the expansion of that particular group of people.

Andrew Podger AO:

Well, you're right, the world has changed, and I've written about how big a change it's been. It's been quite a massive change in the public service over that period from the 1970s. Indeed, the bottom two classifications in our system now, APS 1 and 2, about 5% of the public service, back in that era, it was around 60% of the public service. So 60% has dropped to 5%, so it's a different world, and that's of course technological change and so on associated with that, but the expansion at the top is a problem. The change to Public Service Act earlier this year included a provision that calls for agency heads to take measures to create a working environment that enables decisions to be made at the lowest appropriate level, that's now in the legislation. But it's a bit rhetorical, I'm not too sure what one does with that piece of legislation, but what is possible is the commissioner could have a bigger role in the management of the SES.

Now, that was actually a role of the finance department in the 80s and 90s. The finance department controlled the SES numbers and classifications, and I'm just simply taking a first step that the deputy secretary numbers and positions should be determined by the public service commissioner. The public service commissioner should also ask for reports from secretaries about their SES structures more generally. I haven't gone the full distance of going back to the controls we used to have, but I think movement in that direction is called for. You raised an important point that when you've got a mega department with lots of ministers, then you need to have somebody who is ... you're a secretary, as your genuine deputy, the one who is actually the secretary for that minister.

Andrew Metcalfe AO FIPAA:

Yeah.

Andrew Podger AO:

Of course, part of the problem with that is the crazy machinery government arrangements we've had over recent years. We used to have an arrangement whereby there was a portfolio minister who was in cabinet, and there would be one or two or three assistant ministers who wouldn't be in the cabinet. So if you had three ministers, you'd have one in the cabinet, and two assistant ministers that might justify you having two deputies. But I bet you your five ministers, some of them were ministers in other portfolios, and I think that's just a silly nonsense in the moderate. I can't offer any legislative answer to that other it would be nice if we had a little bit more stability around mod, but I think the answer to it is suddenly we're going to increase the numbers of senior public servants.

What that does is it sucks work up, and if you really want to make things work much better, you would give a lot bigger role to your executive level staff. That's where your corporate knowledge is. They're the team leaders of your staff, that's who they all turn to. That's where a lot of your expertise lies. They should be the ones signing minutes to the minister or at least be the contact officer. They should be going with their senior SES people to meetings with the minister. You should be giving them a much bigger go. But when you've got lots and lots of SES there's not enough chairs that are in the room for the ILS to come along, and this is silly.

Andrew Metcalfe AO FIPAA:

Yeah. We should have a longer conversation about that, and so I think there's an opportunity for another podcast, Andrew, about that issue, and about machinery of government arrangements. I found myself in the unusual position in ag, water, and environment of having a senior minister, a cabinet minister as the environment minister, senior minister, the agriculture minister, and a senior minister, a cabinet minister, as well as the water minister, but there was no minister for agriculture, water, and environment. I had three ministers for parts, and the only person who was actually interested in the whole was the secretary.

Andrew Podger AO:

I got every sympathy with you, Andrew. It seems to me that the way those things have moved, it's not quite as bad today as it was under the previous government, but it's not much better. How you would put together a portfolio budget submission when you haven't got a clear portfolio minister to set the priorities across the portfolio is a very difficult task.

Andrew Metcalfe AO FIPAA:

Yes.

Andrew Podger AO:

It just seems to me it's undermining the concept of portfolios and portfolio ministers, and working with the cabinet.

Andrew Metcalfe AO FIPAA:

And responsibility. So time is about to defeat us, I'm afraid, but I just wanted to very quickly look at the final section of your paper that looks at conflicts of interest, and public servants take roles outside the APS when they've left the service. You recommend the Public Service Act contain revisions for regulating conflicts of interest. Again, I have personal experience. I left the public service involuntarily, and found a role as a partner in a firm that consulted back to government, and then of course, I left that firm and came back to government, and we put very special protocols in place to make sure that there were no conflicts of interest. But this issue about people moving in and out of the public service, and into firms that work for government as consultants or contractors is clearly an important point, and something that you've thought about as well.

Andrew Podger AO:

My strong impression is that we don't have a proper system of handling post-separation employment for agents. There's no reason why ... no excuse for that. Indeed, when I was in the Defence Department a long time ago, we had very clear processes around that. Indeed, we had reciprocal codes of ethics between the department and the contractors we were working with, and part of that was the post-separation employment framework. But it is clear that that is not exercised across the public service in any uniform way. If you put in legislation and provisions, those provisions might require, for example, that the, particularly for SES, it could be some other specialist job, particularly for SES, that there is a requirement on separation, that they have a report to the secretary about their post-separation arrangements. If those change within two years, that they must report that, and then that post-separation arrangement would then be subject to a written agreement around the process.

In Defence, the written agreement was essentially between the department, the separating employee, and the new employer, and that would set out what they're allowed to do for how long, and when it would be freed up. Would it be one year? Would it be two years? Could they work there at all? Or if they did work there, what could they work on and what could they not work on? That would be a document, which would have some legal standing, but that's what I'm saying should be in the law, a provision around that. Now that's only one area of conflict of interest, but it's a very important one, and if we had a big move on that, I think we'd see also people much more aware of this issue of conflict of interest across the public service.

Andrew Metcalfe AO FIPAA:

Well, Andrew Podger, thank you so much for the conversation this afternoon. As was mentioned in the introduction, Andrew, of course is a former departmental secretary, a former public service commissioner, and now for some years has been professor of public policy at the Australian National University, and thinks very deeply about the public sector. Andrew clearly cares about quality of government in Australia. Your paper has obviously provoked a lot of interest, and I know that many other former secretaries and agency heads have

sort of also endorsed the areas for further work and further reform. So thank you for the conversation, and you might talk a bit further down the track in more detail about some of these areas, and whether more progress has been made, but for now, thank you, Andrew.

Andrew Podger AO:

Thank you very much, Andrew. It's very enjoyable. Thank you.

Andrew Metcalfe AO FIPAA:

Thank you.

David Pembroke:

So there you go. What a great conversation between the two Andrews, Podger and Metcalfe, and really, there's a lot to it when you think of the conflicts of interest, secretaries' tenure, ministerial relationships, stewardship, and APS values, the importance of merit, and maybe, or the suggestion indeed of the deterioration in the public service, but really, what a great way to summarise the current state. So if you would like to read Andrew Podger's full discussion paper, we will leave a link to it in the show notes, so if you do have ... it is well worth a read. I have read it myself, and there is a lot in it. Again, Andrew is a fierce advocate for the APS, and I think he does express his views very clearly, succinctly, and it is worth a read, so do take the time to do that.

Now, please be sure to check out past episodes of Work with Purpose on your favourite podcast catcher, whether it be Spotify, Apple Podcasts, wherever you listen to your podcast, please, dude, go back and have a listen. We had a lovely review from someone the other day, who has only recently discovered Work with Purpose, and did say indeed that they were enjoying going back through the archive, and listening to a number of the conversations, so please do that. Now, before we do let you go, we do have something special. Now, you've always wanted, I know many of you have wanted to go behind the scenes of Work with Purpose, and now is your opportunity. On the 6th and the 7th of November, IPAA ACT is hosting the Ready to Rethink Conference at the Hyatt Hotel, and as part of the event, we are going to have a very special live broadcast, and that discussion is going to be with the ANU Vice-Chancellor, Professor Genevieve Bell on Trust and Technology.

Now, early bird tickets are available on the IPAA ACT website until the 24th of September. So please, if you do work for a federal or ACT government department, you can get your tickets at the member rate. So please, let's get together, let's really populate this Ready to Rethink. Come and make your contribution. Come ask a question, and I would hope that we will have time for you to, in fact, be part of the podcast where your questions will be featured. It would be fantastic to have you there at our very first live Work with Purpose, so that will be so much fun. Genevieve Bell, in fact, has been on the program before, but not in her role as the ANU Vice-Chancellor, and I'm sure she'll have plenty to say, as she did last time. I enjoyed the conversation last time, and I'm sure I will enjoy it again.

Now, I do ask this every week, but if you do get a chance for a rating or a review, it does help us to be found. So if you do have a few moments, jump across there, leave a rating, leave a review, and we do like the comments, and we do like the feedback, so please do that as well. Now, you can also follow the latest about Work With Purpose at both Content Group, and at the IPAA ACT on LinkedIn, where you will stay up to date with upcoming guests and other features from Work with Purpose. Now, Work with Purpose is produced in collaboration between Content Group and the Institute of Public Administration of Australia, ACT, and supported, as always, by our very good friends at the Australian Public Service Commission.

Just a reminder, once again, Ready to Rethink Conference, jump onto the IPAA ACT website, 24th of September, early bird clocks off, so don't miss that. But also, if you're a member of the APS or the ACT Public Service, you get your tickets at member rates, so certainly well worth, so make sure you do that. I'm David Pembroke, we'll be back at the same time in a fortnight, but for the moment it's bye for now.

Voice Over:

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