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Government 2.0 Issues Paper

This submission provides the Australian Public Service Commissioner's comments on the *Government 2.0 Issues Paper*.

My responsibilities include managing the ethical framework within which Australian Public Service (APS) agencies and employees operate and which is encompassed in the APS Values and the APS Code of Conduct which are set out in sections 10 and 13 of the *Public Service Act 1999* and with which all APS employees are required to uphold and comply. I am also required to promote the APS Values and Code of Conduct. The Commission provides policy and good practice advice on the interpretation and application of the Values and the Code and monitors and evaluates compliance.

A copy of the APS Values and the APS Code of Conduct is attached.

One of my key interests, therefore, in online communication is to ensure that my advice on the application of the APS ethical framework does not unreasonably restrict the flexibility of APS agencies and their employees to apply and use it effectively. In light of this role, my main focus in the Issues Paper is responding to Question 25:

How can public servants comply with the APS values and other protocols whilst still participating in online engagement? Should existing rules including legislation be changed and/or adapted to facilitate greater online engagement?

and in explaining how the APS ethical framework applies to online communication.

As Commissioner, I am also responsible for developing policy and good practice advice and guidance on employment arrangements in the APS. This includes the identification of emerging workforce capability trends and issues, facilitating continuous improvement in people management and coordinating and supporting service-wide training and career development. This means that, in addition to the ethical issues specifically canvassed in this paper, the Web 2.0 technology presents

other challenges and opportunities for the Australian Public Service Commission. These include:

- the development of workforce planning policies and strategies that will assist the APS to attract and retain staff with the skills and knowledge to be able to take full advantage of the opportunities that these new tools provide for effective policy development and implementation
- the encouragement of and support for training and career development which also supports these skills and that keeps abreast of technological change
- the use of Web 2.0 technology by the APSC itself in developing communities of interest across the APS and beyond to facilitate a greater sharing of ideas to improve the overall quality of public service people management.

I will be giving priority to following up these issues.

Requirements of the APS Values and Code of Conduct

While APS employees must uphold and comply with all Values and all elements of the Code, there are elements of the framework that are particularly relevant to official and private communication, including online communication, by APS employees. The relevant Values are:

- the APS is apolitical, performing its functions in an impartial and professional manner
- the APS is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public
- the APS is responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programmes
- the APS delivers services fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public.

The relevant elements of the Code of Conduct are:

- an APS employee must behave honestly and with integrity in the course of APS employment
- an APS employee, when acting in the course of APS employment, must treat everyone with respect and courtesy, and without harassment
- an APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws

- an APS employee must not make improper use of:
 - a) inside information, or
 - b) the employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person
- an APS employee must use Commonwealth resources in a proper manner
- an APS employee must at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS

The Code of Conduct also includes Public Service Regulation 2. 1, which requires that an APS employee does not disclose information where it is reasonably foreseeable that the disclosure could be prejudicial to the effective working of Government, including the formulation or implementation of policies or programmes. Employees must also not disclose information communicated in confidence within Government. Exceptions include where the disclosure has been authorised by an agency head or where the information is already lawfully in the public domain.

Policies and Guidelines

The Commission's policies and guidelines that apply these Value and elements of the Code to communication by APS employees include:

- *APS Values and Code of Conduct in Practice: a guide to official conduct for APS employees and agency heads.* This document provides a comprehensive guide to the application of the Values and the Code for public servants at all levels. It includes specific chapters on working with Government and Parliament, managing official information, involvement in public information and awareness issues, using Commonwealth resources and the rights of APS employees as citizens
- Australian Public Service Commission Circular No 2007/5: *Involvement of public servants in public information and awareness initiatives* (December 2007). This circular provides APS-wide policy guidelines on the participation of public servants in public information and awareness initiatives on behalf of Government
- Australian Public Service Commission Circular 2008/8: *the Interim Protocols for Online Media Participation* (December 2008). Prepared in consultation with the Australian Government Information Management Office (AGIMO) this circular provides the initial APS-wide guidelines on the ethical use of online communications.

The legislation, policies and guidelines together place a number of specific parameters on the way in which APS employees communicate in their official capacity. They must:

- be must be responsive and proactive both
 - in collecting information and views that will help the Government to make policy and programme decisions and
 - in explaining those policies and programmes to stakeholders
- be politically impartial. This means in particular that APS employees undertaking consultation with the community and other stakeholders in the development of policy advice to Government and explaining how Government policies and programmes will operate, must avoid any perceptions of political partisanship, both for or against Government policies
- communicate with their colleagues, their clients, the community and other stakeholders with respect, courtesy and without harassment
- comply with all applicable Australian laws, including those covering vilification and discrimination.

The legislation, policies and guidelines also set ethical parameters for APS employees in some aspects of their private lives. As citizens, public servants are entitled to express their view on a variety of issues, and I want to ensure that there are no unreasonable restrictions on online private and social communication and comment. But APS employees must also:

- be careful to ensure that comments they make in a private capacity do not lead to perceptions that their personal opinions influence the way that they perform their duties (i.e. that they are biased in the way they provide policy advice, deliver services or otherwise carry out their job)
- be careful to ensure that comments they make in a private capacity cannot be taken to be official statements on the part of the Government or their agency
- avoid any comment that could affect perceptions of their personal integrity as a public servants and thus bring the APS into disrepute
- ensure that they don't make improper use of 'inside' information, and
- ensure that they do not misuse Commonwealth communication resources.

APS employees in both their official and private capacities must also ensure that the laws concerning privacy and the protection of official information are observed.

It is important to understand that these parameters apply to all forms of public communication by APS employees, including statements at public forums, media

releases, public information campaigns, comments to the press, radio and television as well as online communications. They reflect ongoing Government, Parliament and community expectations about the political impartiality and independence of the public service under the Westminster system and the standards of professional and personal behavior by public servants.

I believe that these standards are quite compatible with effective online communication and that the requirement for APS employees to act professionally and properly should not be lessened by the use of innovative media.

However, there are particular issues with online communication that APS agencies and employees need to be aware of and manage. These issues were summed up by the previous Australian Public Service Commissioner, Lynelle Briggs, in her speech '*Public Service Ethics in the Twentieth Century*' at the APS Leader to Leader Event, 25 February 2009:

New communications systems – email, facebook, YouTube, blogs - present a significant ethical challenge in several areas:

- it will be much trickier to manage perceptions of politicisation and of advocating Government policies when public servants are in an online dialogue with the community, particularly when some input may need to be moderated by the public servant
- the speed and breadth of online communication means that we can never be certain where it might end up or who might read it. A public servant might make a legitimate comment as a private citizen on some issue or other, and may find themselves on a website where these remarks are presented as official comment
- it will also affect how we apply other key elements of the Values, including the requirements to behave with respect and courtesy and without harassment, to protect confidentiality, to maintain accountability through record keeping, to make proper use of Commonwealth resources and to uphold the integrity and reputation of the APS. How we manage these and other Values will take on another dimension when views can be spread very quickly and very widely through online media and can easily be subject to distortion and misrepresentation.

The Commission's December 2008 Interim Protocols provided the initial guidance to APS agencies and employees on managing these issues. These Protocols are currently being revised, in consultation with AGIMO and the revision will factor in:

- the Government's interest in maximising access by the public to public sector information and in encouraging community participation in policy and programme development and delivery
- ongoing technological change, including the use of 'Twitter'

- comment and feedback from agencies that have been involved in online communication initiatives.

The Protocols will be revised and updated on an ongoing basis to ensure that they keep abreast with community expectations and remain relevant to online communications requirements. The challenge is to balance ongoing communication advances with wider community expectations of the public service in this environment. This balance is threefold: agency consultation and engagement on line; individual use of the internet; and upholding the APS Values of being apolitical, impartial and responsive.

To conclude, this is a rapidly evolving issue and my aim is to ensure that APS agencies and employees have access to appropriate ethical policy and good practice guidance and advice on online communication. The online communications framework needs to provide the maximum amount of flexibility while being consistent with the APS Values and Code of Conduct. The development of guidelines will need to include an appreciation of the practical issues facing agencies and individuals in this field be and be reviewed on a regular basis to reflect emerging issues.

I would be happy to elaborate on these points if it would be helpful to the Inquiry.



Carmel McGregor
Acting Public Service Commissioner

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