



# STATE OF THE SERVICE REPORT 2002-03

STATE OF THE SERVICE SERIES 2002-03



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## CHAPTER 4: THE VALUES AND RELATIONS WITH THE GOVERNMENT AND THE PARLIAMENT

Public servants, Ministers and parliamentarians operate under the law within a democratic political system in which there is ultimate accountability of governments to the Australian people through the electoral process. Ministers and governments as the elected representatives of the Australian people determine and define the public interest. Public servants advise and implement—assisting governments to deliver their policy agenda and priorities in accordance with due process under the law. They share an objective of achieving better outcomes for the Australian community.

There are three APS Values central to the relationship between the APS and the Government and the Parliament:

- 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 programs.

This chapter explores these Values in practice in relation to several important aspects of the accountability and governance framework underpinning the work of public servants. Specifically, the chapter examines aspects of agencies’ and employees’ interactions with the Parliament and the Government, including dealings with Ministers and ministerial offices. It also addresses developments in the reporting framework, including in relation to the budget system and contracting. Finally, agencies’ experience of a key accountability issue, recordkeeping, is discussed.

### RELATIONS WITH THE GOVERNMENT

The APS Values require that APS employees be responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice, and in implementing government policies and programs. They are also required to be apolitical, impartial and professional, and openly accountable. A related requirement of the Code of Conduct is for APS employees to maintain appropriate confidentiality in dealings with Ministers and their offices, a critical factor for a relationship built on trust and cooperation.

Since last year’s State of the Service report, two Senate inquiries have examined aspects of the relationship between the APS and Ministers: the inquiry into a certain maritime incident and the recent inquiry into the operation of the *Members of Parliament (Staff) Act 1984*. The resulting reports, including majority and minority views, have both been tabled in Parliament. The Government has not yet responded to these reports.

Both the agency and employee surveys explored aspects of the relationship between the APS and the Government. The key results of both surveys are presented below.

## RESPONSIVENESS TO MINISTERS

In an attempt to gain a useful picture of an agency's responsiveness to its Minister(s) in terms of providing frank, honest, comprehensive, accurate and timely advice and services, the agency survey asked agencies to advise on the quality control and evaluation measures they use.

Most agencies providing regular services to Ministers include in their portfolio budget statements target measures of the level and quality of those services, against which they report performance in their annual reports. This report does not attempt to summarise those performance results but to assess in general terms the adequacy of the quality control and evaluation measures being used, as reported in the agency survey.

Sixty-one agencies reported providing regular (i.e. monthly or more often) services or advice to Ministers. Large agencies (95%) are much more likely to provide regular services or advice than medium (65%) or small agencies (56%).

Of the agencies that reported providing regular services or advice to Ministers, all 61 reported having at least one formal quality control or evaluation measure in place during 2002–03 to guide the services they provided. Well over half of these agencies (59%) reported having four or more measures in place; nine agencies reported having six or more measures in place (Australian Crime Commission (ACC), AGD, Aboriginal Hostels Limited (AHL), ATO, Customs, the Department of Education, Science and Training (DEST), Finance, the Office of National Assessments (ONA) and Treasury). However, two small agencies reported having no quality control measures in place and 14 agencies (four large, six medium and four small) reported having no evaluation measures in place during 2002–03.

The most common quality control measure reported was the specification of a minimum classification for signing off ministerial briefs (95% of relevant agencies). The other measures reported were a central function for the quality assurance and coordination of written material to and from Ministers' offices (92%) and the specification of a minimum classification for telephone contact with ministerial advisers (43%).

The most common evaluation measure was some form of internal peer review to evaluate ministerial advice (54% of relevant agencies). The other measures reported were the use of a formal rating system to collect ministerial feedback (39%), a formal requirement that oral feedback is collected from ministerial advisers (25%) and a formal requirement that oral feedback is collected from the Minister (21%).

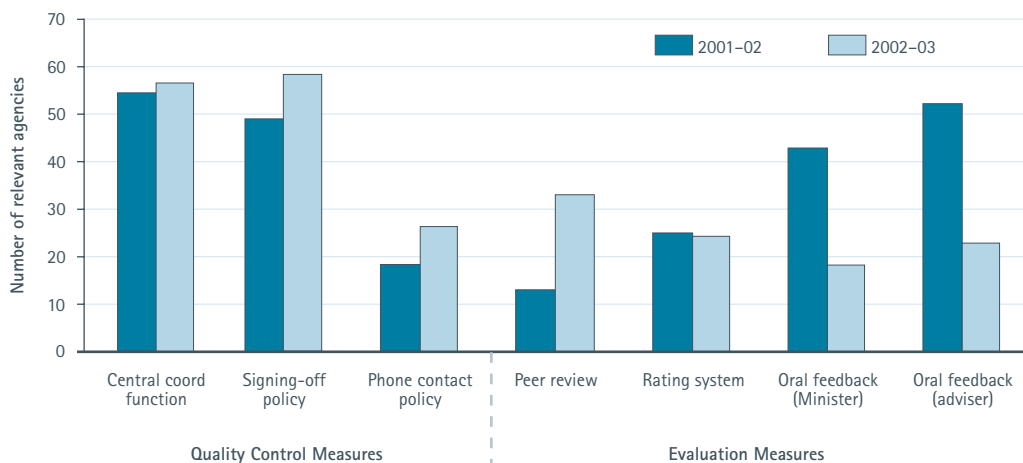
To assess whether any shift has occurred in the use of quality control and evaluation measures, last year's responses from the 61 agencies that reported providing regular services to Ministers were examined. A comparison of the results shows that while there has been a slight increase in all of the quality control measures, the use of evaluation measures has altered significantly.<sup>1</sup> Figure 4.1 shows that internal peer review of ministerial briefs has increased (from 13 to 33 agencies) and oral feedback both from Ministers and ministerial advisers has decreased (43 to 18 agencies and 52 to 23 agencies respectively).<sup>2</sup>

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<sup>1</sup> Please note that differences between questions in the 2001–02 agency survey and the 2002–03 agency survey may account for some of the variation.

<sup>2</sup> This year's results include agency responses to a question about formal requirements for oral feedback as well as information provided by agencies on less formal oral feedback arrangements.

Figure 4.1: Quality control and evaluation measures for services to Ministers



Source: Agency survey

It is not clear what is driving these changes. Oral feedback, of course, requires the active participation of Ministers and/or their advisers and the time required may not always be available. Nonetheless, the central role of the APS in advising and supporting Ministers suggests more effort is needed to gain regular feedback. Research in 2000 by Behm, Bennington and Cummane revealed a wide gap between the service standard sought by many Ministers and that being provided by their departments.<sup>3</sup> Regular feedback is an essential element of any strategy to improve service and narrow this gap.

The need for regular feedback is also stressed by the ANAO in its better practice guide on managing parliamentary workflow.<sup>4</sup> The guide is intended to assist agencies in their management of ministerial and parliamentary support arrangements. The 2003 guide updates the previous guide on this subject, released in 1999, and includes advice on feedback mechanisms.

## INTERACTIONS WITH MINISTERS AND MINISTERIAL OFFICES

As mentioned, 61 agencies provide regular services or advice to Ministers, and all reported having at least one formal measure in place to guide employees in their dealings with ministerial offices and/or evaluate the quality of services, with 93% having three or more measures.

Apart from the measures outlined above, most also report having explicit policies on recordkeeping. Seventy-nine per cent of relevant agencies report requiring that hard and/or electronic copies of significant email communication with advisers be retained on file. Sixty-nine per cent of relevant agencies require that file notes be made after significant discussions with Ministers or advisers, and 56% of relevant agencies require that oral briefing to Ministers or advisers be followed up by written briefing where appropriate.

Perhaps precisely because they interact with Ministers and their offices less frequently, medium and small agencies were more likely to have each of these three measures in place compared with large agencies. For

<sup>3</sup> A Behm, L Bennington and J Cummane, 'A value-creating model for effective policy services', *Journal of Management Development*, vol. 19, no. 3, 2000, pp. 162–178.

<sup>4</sup> ANAO. *Better Practice Guide on Managing Parliamentary Workflow*. April 2003

example, 88% of medium agencies and 83% of small agencies reported having a formal requirement to retain copies of emails in place compared with 67% of large agencies. Further discussion of recordkeeping practices more generally is included in a separate section below.

According to the employee survey results, 26% of all APS employees had been in contact with Ministers or their advisers in the previous two years. The survey questionnaire did not define 'contact' or constrain it to substantial interactions, so responses may well include incidental contact such as providing straightforward technical information or information about constituents, preparing ministerials, through to high level policy advice. There is also no way of directly comparing the results to any past period. Nevertheless, the figure is surprisingly high, and indicates a far greater pervasiveness of interaction down and through the APS than is likely to have existed 10 or 20 years ago.

Eighty-eight per cent of SES employees, 47% of EL employees and 20% of APS 1–6 staff reported having had contact in the last two years. Contact is far higher in departments (37%) than other agencies (18%), and in the ACT (42%) than elsewhere (18%).

There is a mismatch between the policies reported by the 61 agencies providing regular services and advice to Ministers, and the awareness of these policies by the large number of their staff who have had direct contact in the last two years. Table 4.1 shows, for the 14 large agencies for which agency-specific results are available and that reported having these protocols in place, the results from the agency survey and the results from those employees who have had contact with ministerial offices. A sizeable proportion of those employees appear to be unsure about the existence of most protocols agencies report to be in place.

Of the agency-specific results available for 14 large agencies, the proportion of relevant employees (i.e. those who had had contact with ministerial offices in the last two years) who were aware of a requirement for a minimum classification level for signing off a ministerial brief ranged from 63% to 91%, and the proportion of employees who were not sure whether this requirement was in place or not in their agencies ranged from seven per cent to 37%. The large agencies with the highest level of employee awareness were FaCS, Health and DEWR. Overall, this is the measure that employees in large agencies are most likely to be aware of.

**Table 4.1** Relevant employees' awareness of protocols to guide interactions with ministerial offices—employees in large agencies that reported the protocol(s) in place

Measure	Employee survey results (% range)			
	Number of large agencies with measure in place (max. 14)	Aware of protocol (%)	Not aware of protocol (%)	Not sure (%)
Requirement for minimum classification level for signing off ministerial briefs	14	63–91%	0–9%	7–37%
Requirement for a minimum classification level for phone contact with ministerial office advisers	2	31–74%	9–26%	17–44%
Requirement that oral briefing to Ministers or Ministers' staff on key issues is confirmed in writing (including emails or follow-up minutes)	9	22–52%	0–26%	40–61%
Requirement that file notes are routinely made after significant phone calls or oral discussions with Ministers and ministerial advisers	9	30–79%	3–26%	17–55%
Requirement that significant email communications with ministerial advisers be retained	8	39–70%	0–15%	24–58%
Agreed processes for resolving staff concerns that may arise about the nature of requests from ministerial offices	7	12–64%	5–29%	32–59%

Note: The ranges provided are derived from agency-specific employee survey results of (up to) 14 large agencies that reported the protocol(s) in place. They do not include the APS-wide results.

Source: Employee survey

At the APS-wide level, the results indicate that lower level relevant employees are more likely to be unsure about whether such policies are in place compared to the SES. Lack of awareness of an agency protocol is not, of course, of particular concern if there is sufficient depth of understanding of the principles behind such protocols. Some of the comments included in responses to the employee survey provide support in this direction:

*Whilst I'm unsure if the agency has protocols in place to handle the interactions mentioned above, at my level I would see that it was a requirement that all of the above was carried out.*

*While I don't think my agency has formal protocols on many aspects of interaction with Ministers' offices, it would be considered good standard practice in the area I work in...to follow these procedures.*

*I expect file notes or an email to be prepared in my branch on significant contact with advisers but this is not written down anywhere (as far as I am aware).*

On the other hand, agencies should not be complacent in interpreting the results of the employee survey. In most cases, lower level employees are probably less likely to have a sufficient grasp of the related principles. Some employee comments are concerning:

*I think the lack of formal protocols for communications with the Minister's office in our agency is appalling. I regard the communications...to be very haphazardly organised.*

It would seem that policies or protocols for interactions with Ministers and their offices need to be better promulgated amongst employees, particularly given the large numbers who do in fact deal with the offices. In improving this awareness, it is important that agencies do not cause any misunderstanding by Ministers or their advisers: the policies or protocols should be aimed clearly to enhance the quality of the services provided and to support APS employees in meeting their responsibilities for accountability. They should not impact adversely on timeliness, nor inhibit the provision of proactive and relevant advice.

## CHALLENGES IN MANAGING THE RELATIONSHIP

The three APS Values (apolitical, impartial and professional; openly accountable; responsive to the Government) that define the relationship between the APS and the Government (and the Parliament) usually complement each other. There can sometimes, however, be tensions between them, and APS employees must learn how to achieve an appropriate balance that leaves all three Values being upheld to an acceptable degree.

As any current or former senior officer can attest, such challenges have never been infrequent: the interface between politics and administration has been the focus of public administration literature for at least the last century. They are to be expected in a relationship based on different roles and responsibilities.

The majority of employees (60%) who reported having had contact with their Ministers or ministerial advisers in the previous two years said they had not faced a challenge in balancing these values<sup>6</sup> during that period. About one-third of employees said they had had such a challenge in the last two years. This figure is not particularly surprising. However, with many employees dealing with Ministers and their offices, where there are challenges they are being managed by a wide range of employees.

The good news is that the vast majority (67%) of those employees who have been in contact with Ministers or their advisers in the last two years felt highly or very highly confident that they could balance the APS Values appropriately, and only 11% had low or very low levels of confidence. Moreover, of those who reported they had faced a challenge in the last two years, the vast majority (69%) found that the action they took to resolve the challenge(s) was effective.<sup>5</sup> Fourteen per cent found that the action they took was ineffective and 17% found it to be neither effective nor ineffective.

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<sup>5</sup> A summary index was created from the results of the question in the employee survey on effectiveness of the action(s) taken to resolve challenges. The index ranges from zero (respondent considered that all types of action were very ineffective) to 10 (considered that all types of action were very effective). An index of 5 translates to a respondent considering, on average, that actions were neither effective or ineffective in resolving the challenge. For all relevant respondents to the employee survey the percentage with an effectiveness rating over 5 was 69%. The majority of respondents (67%) indicated that they took three or fewer types of action.

<sup>6</sup> The employee survey question was in the past 24 months, have you faced a challenge in balancing the need to be apolitical, impartial and professional, responsive to the Government and openly accountable (as per the APS Values) in dealing with Ministers and/or Ministers' offices?

Confidence in balancing these Values does not appear to be related to age, gender, location (i.e. inside or outside the ACT), the size of the agency employees work for (i.e. small, medium or large) or the type of agency (department or otherwise). Confidence is correlated with some other factors, including:

- classification levels (confidence is highest amongst the SES, and is also reasonably high amongst junior staff (APS1–4)—perhaps because their contacts are more straightforward; EL staff are more likely to report low confidence than staff at other levels)
- whether employees had faced a challenge in balancing the Values (employees who had faced a challenge were less likely to have high confidence and more likely to have low confidence)
- overall job satisfaction (employees with a low overall job satisfaction rating were much more likely to have low or very low confidence and vice versa)
- familiarity with the APS Values (employees who reported being fully familiar with the APS Values were much more likely to be highly or very highly confident and much less likely to have low or very low levels of confidence when compared with employees who reported being familiar but not fully familiar with the APS Values)
- views on whether the most senior managers in their agency act in accordance with the APS Values (employees who reported that the most senior managers in their agency do not act in accordance with the Values were more likely to have moderate, low or very low than high or very high levels of confidence)
- views on whether their immediate manager acts in accordance with the APS Values (employees who reported that their immediate manager does not act in accordance with the Values were more likely to have moderate, low or very low than high or very high levels of confidence)
- awareness of agreed processes in place in their agency for resolving staff concerns that may arise about the nature of requests from ministerial offices (employees aware that such processes were in place in their agency were much more likely to have high or very high confidence levels compared with employees who were unaware or who thought that such processes did not exist in their agency).

Amongst the 14 large agencies, employee confidence levels varied. The proportion of employees in these large agencies with high or very high confidence levels ranged from 47% to 74%; and low or very low confidence ranged from seven per cent to 18%.

Whether or not an employee had faced a challenge of this nature does not appear to be related to their gender or the size of the agency they work for (i.e. small, medium or large). There was, however, a correlation between experiencing this situation and some other factors, including:

- location (employees who work in the ACT are more likely to have faced a challenge than those who work outside the ACT)
- classification level (SES were more likely to have faced a challenge than APS and EL level employees)
- nature of the agency (those in departments were more likely to have faced a challenge than those in other agencies)
- overall job satisfaction (employees with a low overall job satisfaction rating were more likely to report they had faced a challenge of this nature and vice versa).

Of the agency-specific results available for the 14 large agencies, results varied widely with no obvious pattern. The proportion of employees in these large agencies who reported having faced a challenge of this kind ranged from 23% to 48%.

The most common approaches employees reported using to deal with a challenge of this nature were:

- seeking advice from a supervisor (78%)
- seeking advice from a peer (66%).

Other approaches adopted included:

- seeking advice from a manager other than supervisor (48%)
- discussing with ministerial adviser (46%)
- referring to written guidance from agency (39%)
- seeking advice from agency's corporate area (29%)
- taking decision without reference to others or written guidance (25%)
- referring to written guidance from APS Commission (18%).

Employees were asked to rate the effectiveness of the approaches they adopted to deal with challenges in balancing the relevant APS Values. The most effective approach was 'taking decision without reference to others or written guidance', with 84% of employees who used this approach rating it as 'effective' or 'very effective' and just 0.1% rating it as 'ineffective'. The ratings of other approaches were:

- seeking advice from a supervisor (71% rating it as 'effective' and 14% rating it as 'ineffective')
- seeking advice from a manager other than supervisor (71% rating it as 'effective' and 16% rating it as 'ineffective')
- discussing with ministerial adviser (65% rating it as 'effective' and 12% rating it as 'ineffective')
- seeking advice from a peer (64% rating it as 'effective' and 11% rating it as 'ineffective')
- referring to written guidance from agency (58% rating it as 'effective' and 19% rating it as 'ineffective')
- referring to written guidance from the APS Commission (57% rating it as 'effective' and eight per cent rating it as 'ineffective').

It seems clear that when faced with challenges of this nature employees tend to seek advice from those around them and that generally this advice is regarded as being effective in resolving the challenge.

The challenge for agencies is to ensure that employees likely to deal with Ministers or their advisers have the confidence to manage the challenges that inevitably arise, and that they have available ready and reliable support from those around them and confidence that their immediate and most senior managers act in accordance with the Values. In addition, clear policies on protocols and a close relationship of trust and mutual respect between senior managers and Ministers and their advisers are essential prerequisites in this environment.

## RELATIONS WITH THE PARLIAMENT

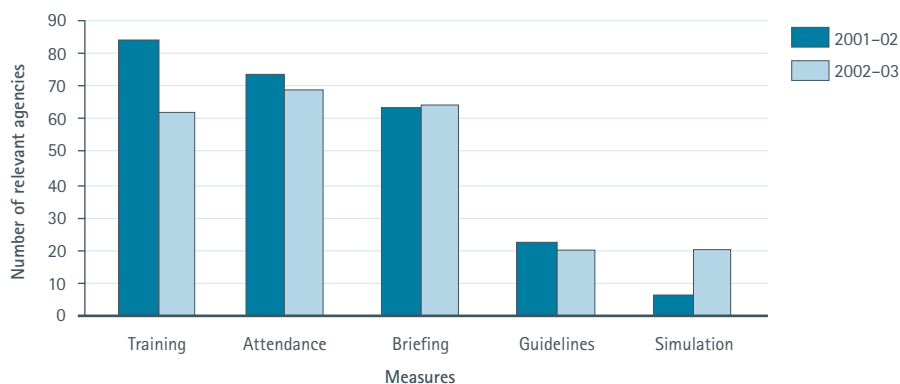
This year’s agency survey asked agencies to report on the measures they had in place to ensure that SES staff understand their rights and responsibilities in relation to the Parliament.

Of the 75 agencies that reported having some or all of their SES staff appear before parliamentary committees, only two reported having no measures in place to ensure that SES understand their rights and responsibilities; 80% reported having three or more measures in place.

The most common measures reported by agencies with SES appearing before committees were learning through attendance and observation (92% of relevant agencies), internal briefing of staff prior to attendance (85%) and self-nominating attendance at training courses or presentations (80%). The use of simulation-type exercises and written internal guidelines was reported by 27% of agencies and mandatory training was reported by 25% of agencies. DAFF, ATSI, Defence and Treasury also reported that their intranet sites include links to parliamentary and/or other appropriate websites containing information and guidance on parliamentary accountability.

The results indicate that the APS has shifted its focus on this issue compared with last year. Figure 4.2 shows that fewer APS agencies are relying on mandatory and/or self-nominated formal training in this area (a drop from 84 to 62 agencies) and more agencies are using simulation-type exercises (an increase from six to 20 agencies).

Figure 4.2: Agency measures to ensure SES understand parliamentary accountability



Source: Agency survey

The decline in the number of agencies relying on formal training appears to be consistent with information on overall training attendance rates in relation to courses on parliamentary accountability run by the Departments of the Senate and the House of Representatives, and the APS Commission. Table 4.2 shows a continuing decline in attendance in recent years at APS Commission training courses dealing with this issue. In 2002–03 there was a decline also in attendance at the Department of the Senate seminar (though this is due to the large in-house seminars in 2001–02 conducted for Defence and the Department of Communications, Information Technology and the Arts (DCITA)). The increase in attendance in the Department of the House of Representatives course does not offset the overall fall in attendance at these courses between 2000–01 and 2002–03.

**Table 4.2: Attendance at parliamentary accountability training**

<b>Course</b>	<b>Year</b>	<b>Attendance</b>
Accountability, rights and responsibilities (a)	00–01	189
	01–02	68
	02–03	42
Preparing to appear before a parliamentary committee (b)	00–01	44
	01–02	19
	02–03	13
Parliament, privilege and accountability (c)	00–01	53
	01–02	108
	02–03	75
About committees (d)	00–01	106
	01–02	30
	02–03	119
Total attendance at above courses	00–01	392
	01–02	225
	02–03	249

Note: (a) The *Public servants' accountability, rights and responsibilities* course run by the APS Commission is open to SES and EL level employees and addresses rights and responsibilities as well as the procedures and expectations of parliamentary committee members. (b) The *Preparing to appear before a parliamentary committee* course run by the APS Commission is open to SES and EL level employees. It builds upon the *Public servants' accountability, rights and responsibilities* course. (c) The *Parliament, privilege and accountability* seminar run by the Department of the Senate is open to SES employees and focuses on the accountability of public servants to Parliament. (d) *About Committees* is a seminar run by the Department of the House of Representatives and provides detailed information on all aspects of committee work, including types of committees and how they conduct their investigations.

Sources: (a) and (b) APS Commission; (c) The Department of the Senate; (d) Department of the House of Representatives

It should be noted that the APS Commission in its 'Orientation to the SES' training course also deals with the accountability framework but not in nearly as much depth as the 'Accountability, rights and responsibilities' program. During 2002–03, a total of 83 participants attended the SES orientation course (77 of whom attended the course within 12 months of their appointment to the SES).

The employee survey asked SES employees whether they had ever received formal training in accountability, rights and responsibilities to Federal Parliament. Of those who responded to the question, 72% reported having received training during their career.

To get a clearer picture of the extent of the need for training, SES employees were also asked whether they had appeared before a parliamentary committee during 2002–03, to which 59% indicated that they had. Most importantly, of those respondents who had appeared, just over one-third indicated that they had not received any training in accountability, rights and responsibilities to Federal Parliament at any time.

Last year's report suggested that agencies are not giving sufficient attention to training their SES on parliamentary accountability. Evidence from the agency and employee surveys indicate that this issue has not been adequately addressed in 2002–03 and that the overall focus on training as a means of equipping employees is declining rather than increasing. While the increase in simulation-type exercises is pleasing and may counterbalance some of the effect of the decline in formal training (or act as a refresher/supplement), indications are that more agencies should be utilising formal training as a means of ensuring their SES employees understand their rights and responsibilities in this area.

In this context, it is worth noting comments made in 2001 by the Senate Finance and Public Administration References Committee on this issue. The Committee found that there was an 'apparent lack of understanding in the Australian Public Service about parliamentary accountability'.<sup>7</sup>

Formal training is a fundamental way of ensuring that SES employees not only understand their rights and responsibilities to Parliament but are well equipped to appear before parliamentary committees. The employee survey asked respondents who had appeared before a committee how well they felt they had performed. The majority (68%) indicated that they felt well equipped to perform effectively before the committee, 31% felt reasonably equipped, and two per cent felt poorly equipped.

The employee survey results do not allow for an exploration of the link between attendance at formal training and employees' perceptions about how well equipped they felt in appearing before a parliamentary committee. Nor do they allow any link between attendance at training and the view of committees on performance. However, it is clear that there is room for improvement. A key aim of agencies should be to ensure that employees who are likely to be required to appear before committees are well equipped to respond in a manner that is consistent with their rights and responsibilities. One of the main methods of ensuring that employees are well equipped to respond to committees is the provision of relevant and adequate training.

## **BUDGET ESTIMATES AND FRAMEWORK REVIEW**

In May 2002, at the request of the Prime Minister, the Treasurer and the Minister for Finance and Administration initiated a joint review of the budget estimates and advice system. The aim of the review was to assess the system's accuracy, responsiveness and effectiveness in meeting the needs of government.

The Budget Estimates and Framework Review was conducted from May to October 2002. It was overseen by an interagency steering committee comprising the Secretaries of Finance (chair), Treasury, FaCS, and DAFF, and a Deputy Secretary from the Department of the Prime Minister and Cabinet (PM&C). The review was serviced by a Finance-led working group and had input from various cross-portfolio reference groups.

The review endorsed the accrual accounting framework, finding that many elements of the system are working well. No changes were proposed to legislation. However, the review identified that there is scope to streamline the Australian Government's financial framework, to improve information management systems, and to enhance the quality and timeliness of financial information provided to Finance and the Government. For example, the review recommended:

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<sup>7</sup> Senate Finance and Public Administration References Committee, *Inquiry into the Government's information technology outsourcing initiative—Interim report: Accountability in a commercial environment—Emerging issues*, Commonwealth of Australia, 2001.

- specific financial reporting timeliness targets for agencies and Finance
- enhanced program budgeting and reporting requirements
- revised centralised cash management arrangements
- harmonisation of Australian accounting standards with the Government finance statistics framework
- the redevelopment of Finance's central budget information management systems.

The Government agreed to all recommendations in late 2002.

The review's recommendations provided for regular progress reports and the Government received its first report in September 2003. The report noted that improvements are already evident. These improvements include more central management control of agency cash; the collection and reporting of program information and improvements in financial reporting timeframes. Other recommendations that have been implemented include the cessation of the Agency Banking Incentive Scheme and the Capital Use Charge. With regard to cash management, general government sector agencies commenced on 1 July 2003 to draw down cash on an as needed basis for departmental expenditure, and to forecast their cash draw down needs on a program basis.

Care has been taken to work with agencies during the implementation of the review to ensure that agencies are appropriately consulted on implementation issues. A number of interdepartmental consultative working groups have been established to ensure a cooperative approach is maintained throughout the implementation process.

## THE SENATE ORDER ON DEPARTMENTAL AND AGENCY CONTRACTS

The Senate Order (the Order) on departmental and agency contracts was passed by the Senate on 20 June 2001, with subsequent amendments passed on 27 September 2001 and 26 June 2003.

The purpose of the Order is to provide clarity on, and encourage the appropriate use of, confidentiality provisions in Australian Government contracting activity. The Order requires that FMA Act agencies provide on their internet home page a list of all contracts to the value of \$100,000 or more which have not been fully performed or which have been entered into during the previous 12 months. Amongst other things, the internet listing should identify whether the contracts contain any confidentiality provisions or other requirements of confidentiality, as well as the reasons for confidentiality.

In order to monitor effective agency implementation, the ANAO has agreed to conduct audits of agency compliance with the requirements of the policy, with a focus upon determining whether agencies have appropriately classified contract material. In February 2003, Finance released *Guidance on Confidentiality of Contractors' Commercial Information* to assist agencies in entering into appropriate commitments of confidentiality in their procurement processes. Finance has also issued *Guidance on the listing of contract details on the internet* to assist FMA Act agencies in meeting the specific requirements of the Order.

The ANAO tabled its fourth audit of FMA Act agencies' compliance with the Order in September 2003. The audit found that 86% of all agencies presented a list of contracts that provided all the contract information required by the Order. However, the ANAO expressed concern about agencies' understanding and application of confidentiality protection for contracts. Audit findings suggested that agency compliance could be further improved through continued efforts to ensure practices are reflective of Government policy.

## RECORDKEEPING

The APS Values set out in the PS Act provide that the APS is openly accountable for its actions, within the framework of ministerial responsibility to the Government, the Parliament and the Australian people. The maintenance of effective recordkeeping systems supports this value, by allowing agencies to demonstrate that due process has been followed in actions and decisions. Effective recordkeeping is also integral to meeting legal requirements, and the achievement of business goals by ensuring that necessary corporate information is available and accessible as required.

Over the past few decades, recordkeeping in the APS has been influenced by an increase in public scrutiny through administrative law reform and parliamentary oversight, and increased emphasis on achieving results. Technology has also had a major impact on recordkeeping practices.

Although there has been an increase in the transparency of recordkeeping, a number of organisations have raised concerns about its quality and quantity. In September 2003, the ANAO tabled the second in a series of audits on recordkeeping.<sup>8</sup> It concluded that, although all agencies audited had taken active steps to improve their recordkeeping frameworks and practices, their recordkeeping policies, systems and procedures were at different stages of development. In particular, it found a significant risk of the non-capture and unauthorised disposal of records because:

- organisations had not paid sufficient attention to the risks associated with recordkeeping, including those related to outsourced functions, nor had they identified their vital records
- not all records were being entered into formal recordkeeping systems
- limited controls were in place over electronic records
- formal, long-term sentencing programs for the disposal of records were not in place
- physical records were not being stored in compliance with NAA standards
- contracts with outsourced providers did not include all recordkeeping elements recommended by the NAA, and minimal monitoring and review activities were being conducted to ensure outsourced providers were meeting recordkeeping requirements.

The *State of the Service Report 2001–02* reported that there was a growing awareness of modern recordkeeping requirements among agencies, but that some, particularly smaller agencies, were not well advanced in reviewing arrangements and integrating electronic records into corporate records management systems. It also reported a need for more active and targeted staff training and development strategies.

In response to the ANAO's first audit report on recordkeeping<sup>9</sup> and the *State of the Service Report 2001–02*, the NAA has included practical advice on its website explaining how agencies can use its products and services to address the identified issues.<sup>10</sup> In June 2003, the NAA also released a training package, *Keep the knowledge—Make a record!* This package is designed to assist agency trainers or records staff to design agency-specific programs to teach staff about their recordkeeping responsibilities.

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<sup>8</sup> ANAO, *Recordkeeping in Large Commonwealth Organisations*, Report No. 7, September 2003, <http://www.anao.gov.au>

<sup>9</sup> ANAO, *Recordkeeping*, Report No. 45, May 2003, <http://www.anao.gov.au>

<sup>10</sup> NAA, *Using e-permanence: Advice on addressing ANAO and APS Commission findings on recordkeeping*, 2003, <http://www.naa.gov.au>

Recordkeeping was also referred to in the APS Commission's publication *APS Values and Code of Conduct in practice: Guide to official conduct for APS employees and agency heads*, launched in August 2003. The guide outlines the importance of recordkeeping in the APS in the context of managing official information, and highlights key issues facing the APS including time constraints, use of personal records, accuracy and the impact of technology.

The agency survey asked questions about the review of recordkeeping systems in agencies and the use of measures to ensure staff are aware of their recordkeeping responsibilities. The employee survey explored employee perceptions of recordkeeping. This section also draws on the results of two surveys of recordkeeping conducted for the NAA in September 2002, which surveyed agencies and employees who create records.<sup>11</sup> In general, the findings point to increasing attention paid by agencies to the issue of modernising their recordkeeping systems. However, there is evidence that a more strategic approach to records management and training is required in some agencies.

## THE EVOLUTION OF RECORDKEEPING SYSTEMS

Significant changes in technology in recent years have prompted APS agencies to modernise their recordkeeping systems. The extent of the modernisation has meant that, at this point in time, the APS remains in a state of transition in regard to recordkeeping, and agencies will continue to require a considerable investment in time and resources, and sustained effort, to ensure that their recordkeeping systems continue to meet changing needs.

The NAA's agency survey painted a complex and diverse picture of current arrangements for recordkeeping in Commonwealth agencies. A centralised model of record management, with one policy, one physical location for the record management operation and one group of people responsible for record management activities was most common (used in 43% of agencies). However, decentralised models, with multiple units providing services for particular areas, were used by 12% of agencies, and devolved models, where records management staff report directly to business unit managers, were used by 9% of agencies. A combination model, with features of all three models, was the second most common response (used in 35% of agencies).

The results of the agency survey show that the majority of APS agencies (63%) undertook a review of their recordkeeping systems in 2002–03 and that a further 20% of agencies are planning to undertake a review in 2003–04. Large and medium agencies (68% and 69% respectively) were more likely to have conducted a review in 2002–03 than small agencies (56%) but small agencies were more likely than large agencies to be planning reviews in 2003–04 (29% compared with 9%).

A significant proportion of agencies are using the Designing and Implementing Recordkeeping Systems (DIRKS) methodology developed by the NAA in their reviews, with almost half (47%) of agencies reporting either commencing, continuing or finalising a DIRKS process in 2002–03. However, for all but three of these agencies, activity was limited to the preliminary stages of the DIRKS process, with the NAA reporting that much of the activity concentrated on the development of new functions-based disposal

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<sup>11</sup> Orima Research and NAA, *Report on a survey of the state of recordkeeping in the Commonwealth Government, 2002*, <http://www.naa.gov.au>. This survey was sent to all Commonwealth agencies covered by the *Archives Act 1983*, including statutory authorities and government business enterprises, as well as portfolio agencies or departments. Sixty-two per cent of respondents were portfolio agencies or departments, or statutory authorities with employees staffed under the PS Act.

authorities.<sup>12</sup> There is, however, potential for agencies to apply the information about their business needs, collected through the functional analysis required by this process, to more fundamental reviews of their recordkeeping systems, including reviews of electronic recordkeeping.

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IP Australia has a rolling program of recordkeeping reviews, based on an assessment of risks. This has included reviews of specific activities and projects and formal reviews by internal auditors of recordkeeping in specific IT systems.

Centrelink has implemented consistent practices and procedures nationally under the Off-Site File Storage Project. Informal file checks are carried out by the executive. The records management team makes regular presentations at team meetings to encourage an assessment of recordkeeping procedures at the local level.

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The widespread use of electronic communication continues to be a major challenge for agencies.<sup>13</sup> While the extent of review activity suggests agencies are actively responding to this challenge, the NAA's agency survey identified continuing differences in the way paper and electronic records were handled in some agencies. For example, 68% of responding agencies reported that they had a current documented records management policy, and that almost all of these policies covered paper files. However, in only around two-thirds of cases did such a policy also cover electronic mail and electronic documents.

Similar results were found in the NAA's employee survey. While 91% of employee respondents reported that their agency had agency-wide systems and procedures for managing paper records, only 73% had similar procedures for electronic documents and electronic mail. Nevertheless, this latter finding represents an increase on the results of the NAA's 2000 employee survey, which found that 67% of respondents said that there were agency-wide systems in place for capturing electronic information, and 57% said that there were agency-wide systems in place for capturing electronic mail.

While these results indicate that progress has been made in the electronic capture of records, agencies must continue to improve the quality of their systems for storing them. For example, the NAA employee survey found that the ease of filing electronic records was rated less favourably than the ease of filing paper records (with 27% of respondents rating the filing of electronic records as difficult compared with 17% for paper records).

The NAA also asked employees where they stored their work-related electronic files. Just under half of respondents (49%) reported that these files were located within their agency's recordkeeping systems, suggesting that there is still a need for the filing of electronic records to be approached more systematically.

The Australian Government's strategy *Government Online* required agencies to make and keep records that accurately document public websites over time.<sup>14</sup> The standards for recordkeeping established in this strategy have been reaffirmed through the Australian Government's e-government strategy, released in

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<sup>12</sup> This reflects the NAA's disposal policy, issued in late 1999, that new records disposal authorities were to be based on a functional analysis undertaken in accordance with the DIRKS method and that records could not be transferred to the archives based on previously issued disposal authorities.

<sup>13</sup> Although the term 'electronic records' is sometimes used to refer to analog materials (e.g. videotapes), it is used here to refer to records held in digital form on magnetic or optical computer storage media.

<sup>14</sup> NOIE, *Government Online, The Commonwealth Government's Strategy*, April 2000, <http://www.noie.gov.au>

November 2002.<sup>15</sup> The standards and guidelines for e-permanence that agencies must comply with are maintained by the NAA.

The NAA's agency survey found that just over half of the agencies (54%) managed their web-based records in accordance with the NAA's guidelines, with more medium and large agencies (69% and 58%) using the guidelines than small agencies (48%). The most common reasons provided by agencies which had not used the guidelines were that they were not yet ready to implement the guidelines or that implementation was pending, that they did not have sufficient resources, or that the guidelines were not necessary or relevant to their organisation.

## RECORDKEEPING CAPABILITY

The employee survey results show that most employees believe that their agencies place a priority on effective recordkeeping, with 84% of employees stating that their agency considers good recordkeeping practices to be very important. Employees from small agencies were less likely to agree with this statement (71%) than employees from medium (85%) and large agencies (84%). Agency-specific results available for 21 large agencies show that on an agency-by-agency basis results vary considerably, from 69% to 96%. The large agencies with the highest results were the CRS, Centrelink and Customs.

The employee survey found that a majority of employees agree that they receive appropriate training and/or have access to information that enables them to meet their recordkeeping responsibilities (64%). Nevertheless, this was substantially lower than the proportion of employees who agreed that their agency considered good recordkeeping practices to be very important (84%). This difference was also reflected in some additional comments made by employees. For example, one employee said:

*Recordkeeping is a high priority within this agency but training for admin officers is sadly lacking.*

There was again considerable variation among agencies. In particular, employees from small agencies were less likely to agree (49%) than employees from medium (69%) or large agencies (64%).

A minority of employees (18%) indicated that they have not received appropriate training or had access to necessary information. This number was significantly higher for SES and EL employees (25% and 28% respectively) than for APS level employees (15%). This finding is consistent with findings from the NAA employee survey, where ELs and SES employees were less likely to rate training courses, intranet information and guidelines and policies as useful than APS employees. This issue of how best to influence senior officers' recordkeeping behaviour is particularly significant, given the importance of the records that are likely to be created at these levels.

Agency survey results were generally consistent with the employee survey results. For example, only 62% of agencies have measures in place to ensure senior managers are aware of their recordkeeping responsibilities, but a further 29% of agencies are developing awareness-raising measures. Similarly, while 67% of agencies have measures in place to ensure non-SES employees are aware of their recordkeeping responsibilities, a further 28% of agencies are developing such measures.

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<sup>15</sup> NOIE, *Better services, better government: the Federal Government's E-government Strategy*, November 2002, <http://www.noie.gov.au>. This strategy is discussed in more detail in Chapter 5.

The most common measures for ensuring senior managers were aware of their responsibilities were self-nominating formal in-house training (44% of agencies with measures or developing measures), followed by attendance at NAA seminars or training (43%), and inclusion in general training for senior staff (30%).<sup>16</sup>

Fifty-three per cent of agencies indicated they had measures additional to those specified for ensuring senior managers are aware of their recordkeeping responsibilities in the survey, with the most common being inclusion of guidelines on departmental intranets, induction training and staff newsletters or circulars. Results for other staff indicated a greater use of self-nominating training programs (59%) and a high use of circulars and operating instructions (79%).

There is currently no comparable data that allows us to assess trends over time in employee satisfaction with training and information relating to recordkeeping. However, the numerical data collected in the 2002–03 State of the Service employee survey will provide a benchmark for information collected in future years.

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As part of its information management framework, including the introduction of electronic document and records management systems, IP Australia has conducted a broad range of change management activities. Activities have included: all staff awareness-raising sessions, the production of promotional material with a recordkeeping theme, and prizes for demonstrating that information management responsibilities have been included in performance agreements.

Administrative officers in CRS units that are responsible for records management are given administrative and client file training as part of their induction. Regional manager best practice guidelines are available on the intranet. Records management staff are available to answer technical questions and support staff to maintain records. Items are prepared for the staff magazine, and intranet news items are published on a regular basis.

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## **CONCLUSIONS**

The relationship between the APS and Ministers and their offices is critical to the smooth operation of government. The interface between politics and administration has always featured heavily in the ongoing debate and discussion about public administration, and has been a central focus of public administration literature in Australia and elsewhere for a century and more. What does appear to have changed in more recent times is the extent to which public servants have contact with Ministers and their offices. This is a key finding from the employee survey, that 26% of all APS employees had been in contact with Ministers or their advisers in the previous two years.

For public servants, making judgments about the application of the APS Values and balancing them is part of building a strong and mature relationship with Ministers' offices. For most employees, this happens without any challenge being faced. For those who faced a challenge, most found that the action they took to resolve the challenge was effective, and most are confident that they can balance the Values effectively.

However, handling the relationship and any challenges arising from it now potentially faces a wider range of employees. It is important that agencies ensure that employees likely to come into contact with Ministers

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<sup>16</sup> Agencies could nominate more than one measure.

or their advisers have the capacity to manage the challenges that inevitably arise, and that they have available ready and reliable support from those around them. Some middle level public servants in particular are not confident, and even where protocols are in place to assist them, they are not always aware of them. The wider interaction adds to the case for clear agency policies or protocols for interactions with Ministers and their offices, and for ensuring employees are aware of them. In improving this awareness, it is also important that agencies do not cause any misunderstanding by Ministers or their advisers; the policies or protocols should be aimed clearly to support APS employees to meet their responsibilities for high quality services to the Minister and for accountability. They should not impact adversely on timeliness, or inhibit the provision of proactive and relevant advice. Indeed, they should be designed to support a close relationship of trust and mutual respect between APS employees and Ministers and their advisers.

The employee survey found that almost one-third of employees who had appeared before a federal parliamentary committee had never received formal training in this matter. Agencies should be ensuring that employees who are likely to appear before parliamentary committees are well equipped to respond in a manner that is consistent with their rights and responsibilities. One of the main methods of ensuring that employees are well equipped to respond to committees is the provision of relevant and adequate training.

In terms of recordkeeping, the high level of review activity and increasing incidence of agency-wide policies for dealing with electronic records suggest a growing awareness among agencies of the need to modernise their recordkeeping systems. However, the evidence also suggests that some agencies still need to take a more strategic approach to records management, particularly in relation to electronic records. Small agencies, in particular, continue to have a lower level of review activity, although they are anticipating a greater level of review activity in the immediate future. Their employees are also less likely to see good recordkeeping as an agency priority or to be satisfied with levels of training and information.

Differences in employee perceptions of the importance of recordkeeping and the availability of appropriate training and access to information, particularly among higher-level staff, also suggest that, while agencies are moving in the right direction, further work needs to be done to ensure that agency policies are implemented in practice. While the NAA has produced material specifically aimed at the needs of managers, targeted training and information that meet the needs of middle and senior management continue to be a priority area for further development within agencies.