

# Public Service to Serve the Public

*You are never giving, nor can you ever give, enough service.*

*James R. Cook*

### The role of the public service

The constitutional and practical role of the public service is to assist the duly constituted Government in formulating policies, carrying out decisions and in administering public services for which they are responsible. Constitutionally, all administrations form part of the state and, subject to the provisions of the constitution, civil servants owe their loyalty to the department in which they serve.<sup>1</sup> Civil servants should administer their organisations recognising:

- the accountability of civil servants to the Minister;
- the duty of all public officers to discharge public functions reasonably and according to the law;
- the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and,
- ethical standards governing particular professions.

Civil servants should conduct themselves with integrity, impartiality and honesty, and deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration. They should also endeavour to ensure the proper, effective and efficient use of public money.

At the same time, civil servants should always be aware that their Ministers, too, have duties and that they are answerable in a number of ways:

- Ministers are accountable to the elected representatives of the people through the Legislature;
- Ministers have a duty to give the Legislature and the public as full information as possible about their policies, decisions and actions, and not to deceive or knowingly mislead them;
- Ministers have a duty not to use public resources for party political purposes, to uphold the political impartiality of the public service, and not to ask civil servants to act in any way which would conflict with their public service code;
- Ministers have a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching decisions; and,

### Basic values and principles governing public administration

(1) Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- (a) A high standard of professional ethics must be promoted and maintained.
  - (b) Efficient, economic and effective use of resources must be promoted.
  - (c) Public administration must be development-oriented.
  - (d) Services must be provided impartially, fairly, equitably and without bias.
  - (e) People's needs must be responded to, and the public must be encouraged to participate in policy-making.
  - (f) Public administration must be accountable.
  - (g) Transparency must be fostered by providing the public with timely, accessible and accurate information.
  - (h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.
  - (i) Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.
- (2) The above principles apply to -
- (a) administration in every sphere of government;
  - (b) organs of state; and
  - (c) public enterprises.
- (3) National legislation must ensure the promotion of the values and principles listed in subsection (1).
- (4) The appointment in public administration of a number of persons on policy considerations is not precluded, but national legislation must regulate these appointments in the public service.

*Section 195 of the 1996 Constitution of South Africa*

<sup>1</sup> See also the chapter entitled Public Service Ethics, Monitoring Assets and Integrity Testing. The chapter entitled Giving Citizens

a Voice discusses whistle-blowing and complaints mechanisms.

- Ministers have a duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice (and are answerable to the courts where they exceed or misuse their powers).

## The role of a Public Service Commission

To assure the maintenance of a sound public service, many countries provide for Public Service Commissions, whether in their constitutions or in their general law. These institutions, independent of the government of the day, are designed to protect and promote the integrity of public servants. The relevant South African provision reads in part<sup>2</sup>:

### *Public Service Commission*

- (1) There is a single Public Service Commission for the Republic.
- (2) The Commission is independent and must be impartial, and must exercise its powers and perform its functions without fear, favour or prejudice in the interest of the maintenance of effective and efficient public administration and a high standard of professional ethics in the public service. The Commission must be regulated by national legislation.
- (3) Other organs of state, through legislative and other measures, must assist and protect the Commission to ensure the independence, impartiality, dignity and effectiveness of the Commission. No person or organ of state may interfere with the functioning of the Commission.
- (4) The powers and functions of the Commission are:
  - (a) To promote the values and principles set out in section 195, throughout the public service;
  - (b) to investigate, monitor and evaluate the organisation and administration, and the personnel practices, of the public service;
  - (c) to propose measures to ensure effective and efficient performance within the public service;
  - (d) to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in section 195;
  - (e) to report in respect of its activities and the performance of its functions, including any finding it may make and directions and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in section 195 are complied with; and
  - (f) either of its own accord or on receipt of any complaint -
    - (i) to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executive authority and legislature;
    - (ii) to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies;
    - (iii) to monitor and investigate adherence to applicable procedures in the public service; and
    - (iv) to advise national and provincial organs of state regarding personnel practices in the public service, including those relating to the recruitment, appointment, transfer, discharge and other aspects of the careers of employees in the public service.

---

<sup>2</sup> Section 196 of the Constitution of South Africa

- (5) The Commission is accountable to the National Assembly.
- [(6) to (8) omitted]
- (9) An Act of Parliament must regulate the procedure for the appointment of commissioners.
- (10) A commissioner is appointed for a term of five years, which is renewable for one additional term only, and must be a woman or a man who is -
- (a) a South African citizen; and
  - (b) a fit and proper person with knowledge of, or experience in, administration, management or the provision of public services.
- (11) A commissioner may be removed from office only on -
- (a) the ground of misconduct, incapacity or incompetence;
  - (b) a finding to that effect by a committee of the National Assembly or, in the case of a commissioner nominated by the Premier of a province, by a committee of the legislature of that province; and
  - (c) the adoption by the Assembly or the provincial legislature concerned, of a resolution with a supporting vote of a majority of its members calling for the commissioner's removal from office.

### The politicisation of the public service

A public service of competence and integrity is for many a distant destination. Many are struggling in highly corrupt environments to reform public services that have for too long been dominated by politicians. Some public services have been wholly unable to perform one of their key roles – that of acting as a check on the legality of the actions of their political masters.<sup>3</sup>

Particularly in the developing world, too, many public services have been a home for needy relatives (owing loyalty to connections, not to public service “customers”), or for those who have quite literally “purchased” their posts (and who seek some return on their investment). In some countries, government departments have been characterised as being private fiefdoms for Ministers, where they and their cronies have benefited handsomely without opposition from (and even with the active participation of) their senior officials.

The external threats to an honest and effective public service lie not only at the top but also at the bottom – where the general public may be so accepting of the need to offer gratuities to civil servants, as to perpetuate corrupt practices against the wishes of public service managers.

The public may be won over through imaginative campaigns such as the introduction of “no corruption zones”, but coping with intrusive Ministers can be quite problematic. There is a need for the boundaries to be clearly drawn between the making of policy (which lies in the domain of the Minister) and the implementation of policy (which is the responsibility of the public service). In general, the more a Minister is involved in the day-to-day administration of his or her Ministry, the more likely it is that political considerations overtake good administrative practice.

Even where public service reform has been achieved and aberrations removed, what is to protect a public service against sliding back into a morass of politicisation? And, on the other

<sup>3</sup> The principles of administrative law, and the circumstances in which courts can intervene to review official decisions, can be useful weapons for the senior civil servant to use to dissuade a

Minister from insisting on unlawful actions. See the chapter entitled Administrative Law – Judicial Review of Official Actions.

hand, where a change in government takes place after a lengthy period of rule, how can politicians have confidence in senior officials who may have previously worked loyally and effectively for their political opponents?

### **The professional public service – continuity and the “merit” principle**

The major task of the public service is to implement the policies of the government of the day. It does not make policy. Rather, it advises the political arm and it executes the government’s policies according to law.

Political appointees will, of course, be personally committed to the policies of a new government, whereas existing public servants may not be. However, serving officials will often have a wealth of experience in policy-making and execution on which to draw when they advise Ministers, and so be in a far stronger professional position to help new Ministers avoid costly mistakes, and (particularly with their existing networks throughout the public service) be better placed to carry the new policies through effectively. Moreover, a professional public service assures a degree of continuity, thereby reducing the disruption implicit in any change in government. Much of the day-to-day business of government will continue as before, and it is important that this not be needlessly disrupted. A deeply politicised public service such as that in the United States pays a heavy price on a change of administration, particularly where one party has remained in power for a long time.

To achieve professionalism, members of the public service must be politically neutral. This means more than merely behaving impartially as between competing political parties, more than not becoming personally involved in political controversies. It means possessing the ability to serve, loyally and effectively, governments of differing persuasion. It also means that senior public officials must be able to offer “fearless and frank” advice to Ministers and carry news that their political masters may not wish to hear. It also means that, at times, they must be able to hold the line where a Minister gives policy directions which are unlawful – or where a Minister seeks to interfere in administrative matters that are not the Minister’s concern.

Politicisation can also impact on the recruitment and retention of quality staff. Hence appointments to, and promotions within, the public service should generally be on merit. Some would say “should always”, but in a number of countries there is a need to adopt policies of inclusiveness, either to draw marginalised groups into participation in government, as in Nigeria, or, as in South Africa, to help to remedy an era of discrimination.

However, where posts at the top are seen as being reserved for those favoured by politicians of the day – and not available on merit – ambitious individuals may well chose a private sector career rather than one in the public service. Those already in the service may have little incentive to improve their skills, unless, of course, they are planning to leave the public sector for fields which offer greater opportunities for advancement.

### *Political “neutrality”*

The neutrality and professionalism of public servants can be compromised in a number of ways:

- by appointing people with well-known partisan connections who will be clearly unacceptable to a future alternative government;
- by appointing people with well-known commitments to particular policy directions that may render them unacceptable to a future alternative government; and

- by replacing incumbent public servants, particularly on a change of government, when there is no good reason to question their competence and loyalty but simply in order to impose the government's authority (particularly if the incumbents are dismissed, rather than retained with similar status and remuneration).<sup>4</sup>

The South African Constitution inhibits politicisation in the following way:

*Section 197 Public Service*

- (1) Within public administration there is a public service for the Republic, which must function, and be structured, in terms of national legislation, and which must loyally execute the lawful policies of the government of the day.
- (2) The terms and conditions of employment in the public service must be regulated by national legislation. Employees are entitled to a fair pension as regulated by national legislation.
- (3) No employee of the public service may be favoured or prejudiced only because that person supports a particular political party or cause...

### Private sector management styles

The traditional challenges posed by politicisation are made the more complex by the contemporary argument taking place in developed countries as to the appropriate management "style" of a modern public service and, in particular, the degree to which this should copy private sector management models. The debate covers a wide area, but for integrity purposes there is one central question: Should the public sector copy the management styles of the private sector to the extent of equating Cabinets and Ministers with boards of directors, and giving them a free hand in appointing senior management?

Comparisons with the private sector are, at best, misleading. Certainly, some aspects of private sector management are relevant to rendering today's public services more efficient and effective. However, seldom does a private sector corporation face the wholesale replacement of its entire board of directors, all of whose new members having completely different views on the direction the corporation should be taking and having little experience of running such an enterprise. Yet such dramatic changes at the top are the norm in systems of democratic government.

Changing teams of transient politicians need to be able take effective control of government and this provides the basic rationale for maintaining a politically neutral, professional public service in the modern democratic era.

### *Professionalism v. politicisation – senior officials on contract*

Assuredly, there is a need for "frank and fearless" advice, but equally important is the need for a professional public service, with experience in managing changes in government policy and effectiveness in serving the government of the day. But how are these values to be preserved in a changing employment environment - given that senior public servants are increasingly likely to be working under contract, without the security of permanent tenure, what is needed to protect the service against further politicisation?

Those advocating the values of professionalism against the inroads of politicisation tend to concentrate on the value of public service independence.<sup>5</sup> Is the ability to give "frank and fear-

<sup>4</sup> Richard Mulgan, *Politicising the Australian Public Service? Politics and Public Administration Group, Parliament of Australia, Research Paper 3 1998-99*, a paper from which this section draws freely.

<sup>5</sup> Report of the Joint Committee of Public Accounts on Public Service Bills in Joint Committee on Public Accounts, Canberra, 1997.

less” advice compromised if officials have no job security? In practice the situation may not be quite as bleak as it may seem. Much depends on what individual Ministers themselves value. If they are arrogant or insecure, and so require reassurance and flattery, then officials dependent on their goodwill will provide it. However, insecure public servants will face incentives to be independent and objective, to be “frank and fearless”, when they are working for Ministers who are themselves professional, and who recognise the value of robust advice that will avert political problems.

In developed countries, under the influence of “managerialism” (the application of private sector management methods to public administration), emphasis has been placed on the need to make public servants more responsive and accountable to elected Ministers. Thus the concept of permanent tenure has come under sustained attack. At the same time, managerialism has tended to give insufficient attention to nurturing the principles of a non-politicised public service, in particular the principle that appointments and dismissals should be based solely on professional competence and the politically neutral skills appropriate for professional public servants.

This is particularly important in a developing country, or a country in transition, whose public service traditions have been, or are, in disarray. There the balance of the argument is tilted very firmly in favour of professionalisation and away from the manipulations of politicians.

### *Striking a balance – the New Zealand model*

In today’s changing world, can the values of a non-politicised service be maintained within the shorter-term appointments and less secure tenure required by the principles of new public management with their requirement for greater accountability and responsiveness from public servants? The experience in New Zealand, which has been at the forefront of public sector innovation, suggests that it can.

Under the (NZ) State Sector Act 1988, final decisions for appointing public sector Chief Executives lie with Cabinet, but the State Services Commissioner has charge of the appointing process, consulting the government on its requirements, convening a panel and making a formal recommendation to Cabinet. After the Chief Executive has been appointed, the State Services Commissioner continues in the role of employer. It is he who reviews and reports on the annual performance of Chief Executives and who has the formal power to seek the removal of under-performing Chief Executives.<sup>6</sup>

The New Zealand experience with its State Services Commissioner demonstrates, such an officer, having his or her main statutory focus on nurturing a professional public service, has a strong incentive to champion the professional neutrality of a non-politicised service if only as a means of maintaining the relevance of his or her own office. The Secretary to the Department of Prime Minister and Cabinet, on the other hand, is primarily concerned with coordinating the policy of the government of the day and has less incentive to view appointments from the broader perspective of the profession as a whole.

A requirement for transparency can further restrict the opportunity for removing incumbent Chief Executives before the end of their contracts. The New Zealand Act allows the dismissal

6 New Zealand is one of the few countries without a formal written constitution. The State Services Commission is established by legislation. The Commission issues an “accountability and responsibility” letter to each CEO on appointment, setting out the standards of personal behaviour expected in intangible

areas, such as service to the Minister, representing the department, leadership, professional and personal ethics, statutory independence, the collective interest and collegiality. Examples are posted in the Best Practice section of the Internet version of this Source Book: <http://www.transparency.org>.

of a Chief Executive by Order in Council on the recommendation of the State Services Commissioner “for just cause or excuse”. In any such case, the State Services Commissioner would be called on to specify and justify the reason for removing an incumbent secretary. Its experience suggests that the need to give public reasons in terms of stated professional and institutional criteria is a genuine constraint on governments. If politicisation depends on the relative ease of removing incumbents, requiring public justification may make politicians think twice about change and therefore make them more ready to trust the capacity of incumbents to adjust to new directions.

This experience reaffirms the view that for all countries it is important that there be Public Service Commissions or other institutions which in a fully transparent fashion can protect a professional public service by ensuring recruitment and advancement on merit, and act as a necessary brake on any creeping politicisation.

### What civil servants should not do!

In any public service there should be clear rules and procedures which ensure that civil servants understand both their rights and their responsibilities. These should make it clear that:

- Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity.
- Civil servants should not without authority disclose official information which has been communicated in confidence within the administration, or received in confidence from others. They should not seek to frustrate or influence the policies, decisions or actions of Ministers or the Legislature by the unauthorised, improper or premature disclosure outside the administration of any information to which they have had access as civil servants.
- Civil servants should not seek to frustrate the policies, decisions or actions of the administrations by declining to take, or abstaining from, action which flows from decisions by Ministers or the Legislature. Where a matter cannot be resolved on a basis which the civil servant concerned is able to accept, he or she should either carry out his or her instructions, or resign from the Public service. Civil servants should continue to observe their duties of confidentiality after they have left Crown employment.<sup>8</sup>

### Why good complaints channels make sense

Just as in the private sector, open and effective complaints channels in the public sector serve to raise levels of performance, to identify those responsible for malpractice and to protect bona fide but vulnerable complainants. These are discussed in the chapter on Giving Citizens a Voice.

#### A survey of public sector workers in Uganda

Even in a very poorly paid public service, employees have a clear view of what corruption is and of its effects. The 1998 Anti-Corruption Survey carried out for the Inspector-General of Government in Uganda included a question to service workers on what they considered acceptable conduct. Nearly all (93%) considered regularly requesting bribes from the public to be harmful and (94%) corruption; only 5% thought it desirable behaviour but some 17% thought it “justifiable”. However, and perhaps ominously, only 6% would report such conduct.<sup>7</sup>

#### “Guide to Good Standards of Customer Service”

*Serving your customers in a “responsible” manner means dealing with them -*

- promptly, without undue delay and in observance of the organisation’s mission, objectives and performance pledges;
- correctly, in accordance with the law or other rules governing their circumstances;
- carefully, by considering all relevant and material facts and factors in the decision making process;
- sensibly, by maintaining a proper balance between the adverse effect of your decision on the legitimate rights and interests of the affected persons and the purpose being pursued by taking that decision, in particular where discretionary power is to be exercised.

*Serving your customers in a “reasonable” manner means -*

- treating your customers with respect;
- showing empathy to your customers, listening to them, and understanding their legitimate needs and concerns, giving due consideration to their age, ability to understand complex issues, any physical or mental disabilities, feelings, privacy and convenience;
- seeing to it that your decisions can stand the test of fundamental reasoning and common sense;
- helping your customers by simplifying procedures, forms, providing clear and precise information on the scope and limit of your services and referring cases to the appropriate authorities if necessary.

*Serving your customers in a “fair” manner means -*

- treating people in similar circumstances in a like and consistent manner;
- giving reasons for your decisions and explaining the likely effects on your customers;
- keeping your customers informed about the progress of matters of their concern;
- informing your customers of any available appeal or complaint channel in respect of your decisions or actions;
- handling such appeals or complaints cautiously, sympathetically and with an open mind;

*continues on next page*

<sup>7</sup> The survey results are published in District Integrity Workshops: Building Integrity to Fight Corruption to Improve Service Delivery,

Inspectorate of Government, Uganda (1999)  
<sup>8</sup> Adapted from the U.K. Civil Service Code, 1996

cont. from previous page

- avoiding creation of inequity through rigid application of rules and regulations where a certain degree of flexibility can be exercised;
- changing rules and procedures as and when warranted to keep abreast of changes in circumstances;
- consulting the persons likely to be affected by any change in the rules and procedures or their representatives and giving them adequate notice before changing any rules and procedures;
- having an internal review system so that adverse decisions can be re-examined by someone not involved in the initial decision making process.

Serving your customers in an "impartial" manner means -

- making decisions based on relevant rules and laws and not on arbitrariness or personal preferences;
- avoiding bias by reasons of a person's race, sex, age, marital status, health, physical appearance, ethnic origin, culture, language, religion, sexual orientation, reputation, social status, political inclinations or personal affections, affiliations or prejudice;
- ensuring priorities are accorded fairly, consistently and with a high degree of transparency.

Serving your customers in a "positive" manner means -

- avoiding adoption of an adversarial approach when faced with the likelihood of litigation;
- admitting and correcting mistakes and offering apologies when it is appropriate to do so;
- taking the initiative to offer assistance to your customers when they are not clear about the proper procedures, services available or units responsible;
- putting in place adequate complaint channels and developing effective complaint handling procedures and informing customers accordingly when the situation warrants;
- taking complaints as opportunities to improve the service of the organisation and using complaints as a management tool to monitor the standards of service and changing customer expectations.

Developed by the Hong Kong Ombudsman

## Citizens' Charters

A well-organised and well-motivated government agency is likely to have introduced a "Citizen's Charter" - a pledge of the services it offers and how it will respond to members of the public. These are increasingly being seen as useful tools for engendering an ethos of public service, and they are discussed in the chapter on Giving Citizens a Voice.

### "Ten rules of bureaucratic survival"

Perhaps the last word on the public service should go to Sir Anthony Jay (co-author of the highly-acclaimed television comedy series, "Yes, Minister"). Writing in the *Daily Telegraph* on 17 June 1999, he articulated ten rules for bureaucratic survival. This Source Book is intended as a contribution to those who would like to close off all of them!

- **Spread responsibility.** Ensure that any wrong decision is taken by more than one person - preferably by a large committee so that it cannot be pinned on you.
- **Consult widely.** Most opposition comes from colleagues, departments or outside bodies who resent exclusion, so include them all. It takes a lot of time, but time does not have to be authorised by the Treasury.
- **Keep it a secret.** If people don't know what you are doing, they don't know what you are doing wrong. Nothing damages a bureaucratic career more than a public outcry, so secrecy is vital.
- **Cover all activities for which you are responsible with rigid rules and procedures.** So long as you can show you followed the rules and kept to established practice, you are in the clear. Once you make exceptions, you are in uncharted territory.
- **In any situation where there is a possibility of blame, put everything on paper to show the blame is not yours.**
- **Avoid risk.** The rewards for success are immeasurably smaller than the penalties for failure.
- **Avoid changes, innovation and hurry.** Not just because of the extra work, but because of the opportunities for error once you lose the protection of precedent. Milton Friedman's first rule of bureaucracy is: "The only feasible way of doing anything is the way it is being done." And avoid hurry, because, of things are done quickly, they are much more likely to be wrong.
- **Avoid measurable standards.** If there are objective criteria for your success, people may be able to prove you have failed. By all means impose them on others, but demonstrate how none of them is applicable to you.
- **Keep expanding.** Put up proposals that require more staff, larger premises and bigger budgets. At the best, this will make you more important and powerful within the system. At the worst, it should at least ensure the avoidance of cuts. Whatever happens, never underspend your budget, or it will be reduced next year.
- **Put all duties and responsibilities on to others - your colleagues, other departments, outside bodies, the general public.** Wherever else the buck stops, never let it be here.

## Some indicators for assessing the public service as an integrity pillar

- Do Ministers respect the independence and professionalism of their senior civil servants? Are they generally expected to provide “frank and fearless” advice to Ministers?
- Are there continuing efforts to streamline bureaucracy to render it more open, efficient and more user friendly towards the public?
- Are “Citizen’s Charters” (or similar undertakings) published to establish the obligations of service providers and the rights of users?
- Are department clients surveyed from time to time to ascertain levels of satisfaction (e.g. through Service Delivery Surveys)?
- Are civil servants obliged to give reasons for their decisions?
- Is there a clear understanding on both sides that Ministers should not interfere in the day-to-day running of the departments for which they are responsible?
- Are government departments generally accessible to the media? Is information made available regularly without individual requests being first approved by the minister responsible or the departmental head?
- Can members of the public easily discover the identities of those civil servants they are dealing with?
- Are managers held accountable for the corruption/inadequate performance of their subordinates?
- Are there complaints mechanisms (whistleblower protection) for staff in which they have confidence?
- Are there gifts and hospitality registers etc. for civil servants in vulnerable positions?
- Is there a regular rotation of employees in vulnerable positions so as to periodically change their physical/functional assignments?
- Are there periodic publicity campaigns (in local languages) explaining the procedures and the criteria for administrative decisions or processes (granting permits, licences, bank loans, building plots, assessing taxes etc.)?

