

A Changing Public Sector: Developments at the Commonwealth Level

John O'Brien
School of Industrial Relations
and Organisational Behaviour
University of New South Wales

Peter Fairbrother
Visiting Fellow, Monash University
School of Social Sciences
University of Cardiff

Over the last three decades the federal public sector has been the focus of government policies aimed at recasting federal public sector employment arrangements from a structure characterised by a considerable autonomy from government to a set of institutions more responsive to government direction; and more recently to a regime marked by considerable operational autonomy within a framework of substantive and substantial government control. These developments had the consequence of promoting a more explicitly managerial employment framework and a more individualised workforce. As part of this process the federal public sector was reorganised as a series of agencies. These 'managerial agents' of governments were authorised to secure more effective employee compliance with these changes. A key element in this process is the response of public sector unions to these developments and the way they have both contributed to, and been affected by, the construction of a more explicitly managerial public sector.

During the late 1970s the Australian federal state faced increasing difficulties with private accumulation and growing trade union militancy from its own employees. In the 1980s the Australian Labor government attempted to meet these challenges through the operation of neo-corporatist arrangements through the Accord process. Integral to this process was the selective shift towards neo-liberal policies and practices. This trend was reflected in the government sector with a transition from traditional bureaucratised employment relations towards more explicitly marketised state labour processes, described as 'depoliticisation' (Burnham 1999; Fairbrother 2000:238–9, 306–7). These 'depoliticised' arrangements refer to the situation where governments distance themselves from the operational activity of state institutions while maintaining effective control over them. On the other hand, 'politicisation' refers to the establishment of more direct and visible relationships between governments and their agencies and their employees. The difference is to be found in the architecture of supervision, rather than a lessening of effective control. These tensions inform the recent shifts in federal state policy and practice towards state

employees. Such developments are associated with the growth of managerialism in the public sector characterised as 'New Public Management' (NPM).

NPM has been theorised, in three key ways. First, NPM was defined as the importation of models of private sector management into the public sector (Ferlie et al. 1996:10–12). Second, it was argued that the development of NPM was an appropriate post-Fordist response to a public sector organised along Fordist lines that was characterised by hierarchy, impersonal regulations: a 'bureaucratised' enterprise (Hoggett 1991). Third, Ferlie et al. (1996) have argued that a distinct public service model remains in existence, reflecting both an adaptation of private sector practices and the retention of distinctive public sector practices and values (cf. Osborne and Gaebler 1992). Debates about the nature and impact of NPM that place management at the centre of inquiry, however, have given much less attention to the role of labour–management relations in shaping the change processes within the public sector.

The aim of this paper is to examine the way the Australian Public Service (APS) has been restructured over the last three decades, with

particular reference to management and labour relations. This restructuring has been to secure a more explicit compliance of the APS workforce with the aims and objectives of government policy. First this process involved the promotion of more explicit ministerial control of public administration. Second, the impact of the attempts at redefining public sector management along NPM lines has not been as clearcut as the imposition of ministerial control suggests. Third, the employment arrangements that had long characterised the APS were dismantled, with the advent of government departments as 'agencies'. Fourth, public sector industrial relations processes moved in the direction of private sector regulation models. Lastly, the tensions and contradictions inherent in these changes were manifested in public sector bargaining arrangements that in themselves constituted a specific challenge to labour. These matters will be considered in turn.

A 'Depoliticised' Past?

Governments are able to exercise power over their employees that exceeds that which can be exercised by private sector employers (Boston et al. 1991:225; O'Brien and Hort 1998). Until the 1980s, however, governments had a strong disposition to place the responsibility for employment relationships on intermediate bodies, particularly the Public Service Boards (Caiden 1965:1–4). The rationale for this was that public employees had a role in governance that was not dependent on changes in the political complexion of government (Caiden 1967:189). Moreover, state employees provided continuity of the public services in exchange for a high level of job security. In the core public service permanent (continuing) employment was linked with the idea of public servants holding an 'office' in a manner similar to statutory office holders.

Although ultimately subject to government, the federal Public Service Board became a powerful instrument of governance. This power was only partly modified by the counter-force of the conciliation and arbitration system. The institution of the Public Service Arbitrator provided Commonwealth public servants with access to arbitral functions (Caiden 1965:240–5), although the existence of such an office reflected a view that Commonwealth public

servants were a special category of employee.

In the face of an emerging fiscal crisis of the state in the 1970s, the concept of permanent employment in the public service, as well as the industrial rights of public servants, was challenged. In the mid-1970s the Coombs inquiry into Australian Government Administration argued for greater mainstreaming of employment relations as part of a general overhaul of the Commonwealth Public Service (Royal Commission on Australian Government Administration 1976). In 1977 and 1981 the federal Coalition government legislated to make it easier to retrain, redeploy and make redundant Commonwealth employees. In 1980 the government amended the Public Service Act to make it more difficult for Commonwealth public servants to take industrial action. This marked the beginning of the transformation of public service employee organisations from largely compliant staff associations to industrial unions prepared to use, albeit selectively, the full range of industrial tactics (Simms 1987).

'Political Management': A More Responsive or More Compliant Public Service?

The federal Labor government in the 1980s advanced programs of economic restructuring, resting on a constituency, involving unions and a sociocultural 'coalition of interests', including community organisations and campaigning groups (Frankel 1997). While this was a particular version of a social democratic program, it increasingly displayed many of the features of a neo-liberal agenda (Fairbrother et al. 1997; Frankel 1997). Drawing on a long labourist tradition, the Labor government elaborated a view of the state as both responsive to the citizenry and providing for a degree of worker participation (Beilharz 1994). The aim was to reorganise the state sector to replace the stultifying and conservative arrangements of the past with what was termed a 'modern' social democratic public service (Wilenski 1980:398–414).

One of the first actions of the new federal Labor government in 1983 was to institute a major recasting of the Commonwealth Public Service Act. The changes made by the government emphasised cabinet priority setting, ministerial control and input from partisan as

well as public service sources (Halligan and Power 1992:77–80). In the period 1984–87 the focus began to shift towards managerialist, rather than administrative/bureaucratic modes, of public service. Managerialism was principally manifested through extensive reforms of budgetary processes that would enable ‘Ministers to involve themselves in the allocation of resources’ (Commonwealth Public Service Board 1984:4). The assertion of political control over the public service was also manifested in the redesignation of permanent heads of government agencies as ‘secretaries’ and the creation of a Senior Executive Service designed to provide a more mobile, but a less secure, stratum of senior public servants (Halligan and Power 1992:107–8). These initiatives simultaneously asserted more implicit political control while creating a senior management stratum more consciously separated from the rest of the public service.

At the Commonwealth level, the distribution of power was shared among ministers, departments and the board itself. Department secretaries assumed responsibility for the classification of public servants, while the Department of Finance was given the role of advising the government on staff establishments. These changes laid the groundwork for the eventual abolition of the Public Service Board in 1987 and the redistribution of its remaining functions among the Department of Finance, the Department of Industrial Relations and the (new) Public Service Commissioner (Task Force on Management Improvement 1992:52–8).

There were two other important aspects of this more responsive social democratic model of public administration (Wilenski 1980). The first of these concerned the ‘representativeness’ of public service and the second the involvement of public servants in the workings of public service agencies. The Public Service Reform Act 1984 required agencies to establish equal employment opportunity programs. The conception of social justice embedded in this initiative was conceived to be a major contributor to efficiency and effectiveness in public administration, as well as being an instrument of greater equity in the workplace. The social democratic model was also enhanced through the promotion of industrial democracy in the workplace.

In 1974 the Whitlam Labor government

established joint management–union consultative councils in federal departments. While these councils had no decision-making powers, they became a means whereby public service unions could be consulted about and contest proposed management-initiated changes. The Public Service Reform Act in 1984 required agencies to develop Industrial Democracy Plans. While public service unions were supportive of these initiatives, they insisted successfully that unions remained the sole channels of formal communication between employees and agency managements (Dickenson 1986:28–9). On the management side there was growing concern that public service unions were using the industrial democracy processes as a means of pursuing traditional industrial demands, rather than a means of facilitating a new style of participative management. On the other hand, unions suggested that some managements were seeking to isolate industrial democracy processes from the mainstream of decision-making in agencies and thus maintain a high degree of managerial prerogative (Kiers 1987). Despite this checkered history in the 1980s, joint councils continued to be crucial mechanisms for unions to exercise influence within the federal public sector.

By the late 1980s, however, the federal government’s initial enthusiasm for industrial democracy had waned. Nevertheless in some agencies such as the Tax Office and the Department of Social Security, where there was a strong tradition of union organisation, industrial democracy processes were mobilised to facilitate major work restructuring processes. Indeed the more enthusiastic advocates of a new accommodation between state, capital and labour saw these initiatives as harbingers of a broader conception of negotiated post-Fordist work organisation (Mathews 1989, 1992). For those with more direct experience of harsher models of state restructuring in the United Kingdom and New Zealand, the initiatives taken in Australia seemed to fit more easily into a social democratic rather than a managerialist model of change (Fairbrother et al. 1998; Fairbrother 1998a). It was, however, the industrial relations system itself that became the site of significant changes to the regulation of public sector labour in the Commonwealth sector, rather than the further extension of industrial democracy processes.

The 'Depoliticisation' of the Management Relations

From 1987, changes to employment relations took place in a more explicitly industrial context. It suited the government and the public service unions to negotiate centrally, although the new arrangements could be subsequently implemented to meet the specific requirements of individual agencies. The 'managed decentralism' of the industrial relations system after 1987 enabled the processes within the Commonwealth sector to be integrated into broader regulatory changes (see Rimmer and Zappala 1988). The second-tier and the structural efficiency wage principles required unions to negotiate with employers on issues of efficiency and productivity in exchange for access to arbitrated wage adjustments. By tying management-initiated organisational changes to the wages system it was possible to incorporate unions into management objectives, while limiting the capacity of management to impose changes without negotiation. The industrial democracy model of consultative management, employee participation and limited co-determination gave way to a more traditional industrial relations model of negotiated change.

In 1994 the Labor government appointed a group to review the Commonwealth Public Service Act. It recommended a significant simplification of the Act involving the abandonment of the concept of 'office' as a formal statement of the status of 'permanent' (continuing) employment in the public service and its replacement with the notion of 'employee' whose rights would be governed by mainstream industrial relations regulation. It also recommended a further devolution of human resource responsibilities to departmental secretaries within a service-wide framework of 'key public service values' (McLeod 1994:vii-xv). These 'values' would supplant the focus on procedural propriety and codified employment rights. They would become the 'moral regulators' of the public service (O'Brien and O'Donnell 2000). Although public service unions agreed somewhat reluctantly to the implementation of the report (O'Brien 1997:189-90), the government was defeated in the 1996 general election before draft legislation could be introduced into the Parliament.

The new Coalition government elected in 1996 came to office with a key objective of

radical industrial relations reform, particularly for its own employees. The new government chose two methods for facilitating the transformation of the APS. The first was through the rewriting of the Commonwealth Public Service Act and the second through the process of agreement making in the APS. Initially, the government attempted to simplify the Public Service Act and further devolve human resource responsibilities to agencies, but the Senate rejected this Bill. Thus, the new wage agreement processes became the principal means of undertaking changes in the public service. The government's general policy aim in industrial relations was to facilitate more direct relationships between employees and employers principally through the minimisation of the role of unions and the Industrial Relations Commission.

The fundamental proposition guiding the government's approach to the APS was 'that industrial arrangements for the public service should be essentially the same as those for the private sector' (Reith 1996). The Minister for Industrial Relations and Small Businesses declared that:

the thrust of contemporary reform policies (in public administration) has been to unleash the creative and productive potential of people in organisations. The watchwords are 'flexibility' and 'innovative human resource management' (Reith 1996).

The government was determined 'to create an environment in the public sector which promotes a culture of continual improvement, foster innovation in pursuing public policy goals and to make individual and team performance count' (Reith 1996).

In a logical sense the government, as the 'ultimate employer' of public servants, could have imposed these changes on a service-wide basis. However, the government needed to find a way of maintaining its interests as the ultimate employer while maximising the prerogative of its managerial agents in the public service departments and agencies and at the same time minimising the capacity of the unions to resist its agenda. The instrument used to maintain this delicate balance between its policy objectives and its employer interests was the 'Parameters for Agreement Making in the APS' (Yates 1997).

Union Responses

In general, Australian unions have not had strong collective organisation at a workplace level. The arbitral arrangements associated with the centralised forms of wage agreement and settlement that long characterised Australian industrial relations had not placed a premium on the development of effective workplace-based union organisation. The institution of joint council arrangements in the 1970s and the advent of the social democratic reforms of the 1980s in the APS provided an opportunity for the development of more activist involvement in localised work and employment relations.

The model of managed decentralism of industrial relations favoured by the Labor government was increasingly challenged by counter discourses of labour market reform promoted by the Coalition parties (Liberal and National Parties 1992). The Australian Council of Trade Unions (ACTU), moreover, demanded that the system of managed decentralism be replaced with a more comprehensive system of workplace-level over-award bargaining. The dilemma facing the federal Labor government was to develop an industrial relations model that accommodated the ACTU policy but also did not involve tacit acceptance of the more radical market-oriented agenda of the Opposition. The new regulatory model was formulated in Accord Mark 6 that envisaged the encouragement of workplace bargaining within the industrial award framework, with the Industrial Relations Commission retaining a diminished, but still significant, role in the regulation of industrial relations (Fox et al. 1995:531).

The government needed to demonstrate that its model could work for its own employees. To that end, the government and 27 public service unions signed an agreement in December 1992. The agreement provided for the development of 'more flexible' employment conditions at the agency level to be achieved in agency-specific agreements provided that there was 'no overall disadvantage to employees' (Department of Industrial Relations 1992). This framework agreement said that agency-level arrangements should not achieve productivity gains through the application of a narrow 'costs offsets' approach or as a consequence of 'arbitrary job reductions'. This left the door open for productivity gains to be made through negotiated

downsizing and voluntary redundancies. These agency-level agreements would supplement a service-wide pay increase that was made in exchange for commitments to address a range of work organisation issues (Department of Industrial Relations 1992:13–21).

The Labor government had a clear agenda to decentralise the bargaining system. The best way to do this was to demonstrate that it could work for its employees. On the other hand, the government needed to maintain control over the costs of such a system. Thus the central agencies acted as the regulators on behalf of the government. In that sense the system was not wholly decentralised. The government also needed to wrestle with the problems of productivity measurement and the expectation from the unions that all employees would receive a similar wage outcome. The solution to these problems through the 'foldback' mechanism meant that some public service managers who had been able to bargain had to finance the non-bargaining 'free-riders'. Even for the bargaining agencies it was difficult to see how productivity gains could be made without either continuing job losses and/or work intensification for the remaining employees (O'Brien 1995). Nevertheless, the process facilitated further the incorporation of public sector unions into a recasting of the APS.

The Labor government bargaining model maintained a central place for unions in the process. In contrast, the Coalition government created an industrial relations system that reduced unions to the status of agents of employees, and encouraged arrangements that encouraged direct agreements with employees, as well as individual contracts. Hitherto federal public sector unions had been able to use either awards or service-wide agreements to maintain a high level of consistency in employment arrangements. Thus the unions, and in particular the main public service union, the Communications and Public Sector Union (CPSU), faced an environment where their capacity to enforce service-wide arrangements was severely constrained, while the government as 'ultimate employer' could insist on the degree of uniformity consistent with its overall policy objectives. As laid out in the 'Policy Parameters for Agreement Making in the APS' (Yates 1997), public service managers were afforded considerable procedural control of the

agreement-making process, while the government retained both substantial and substantive control via these parameters (O'Brien and O'Donnell 1999). This ultimate control was most spectacularly demonstrated in recent times when the government amended its parameters to ensure that there would be no reopening of agreements to compensate for the effects on wages of the Goods and Services Tax. The Department of Employment, Workplace Relations and Small Business made it clear to the heads of agencies that they had no authorisation to accede to claims that breached 'government remuneration policy' (Hoy 2000).

The CPSU used a system of pattern bargaining to generalise conditions and wages: the initial focus was in agencies where the union had effective organisation, followed by attempts to emulate these outcomes in agencies where it was not so strong. In this the union was aided, to some extent, by agency managements who did not wish to have a wide disparity of outcomes across agencies that might occasion loss of staff to more favourable agencies (O'Brien and O'Donnell 1999). This coincidence of objectives between the union and managements did not, however, result in a uniformity of bargaining outcomes. After the 1998 federal election there was a significant restructuring of government agencies. This had the effect of creating new agencies whose employees were working under different enterprise agreements. Thus, there were significant limitations to devolved bargaining where the government is both the source of funds and the prime initiator of policy and administrative reorganisation. Nevertheless, agency managements operating within the government parameters were licensed to pursue the further enhancement of managerial prerogative. In agencies where unions lacked strength, managers were able to increase their control through processes that emphasised 'cultural change' through the imposition of performance-related classification and pay systems (O'Brien and O'Donnell 2000).

The experience of agreement-making forced unions to reorient their work. When agency managements sought to negotiate with staff representatives and not solely with union representatives, CPSU delegates attempted to establish coalitions of union and staff delegates. Although it was not unusual for tensions to

emerge, a working relationship involving regular caucuses to establish a common position prior to negotiating with management and joint staff-union meetings took place in a number of agencies (O'Brien and O'Donnell 1999). Nevertheless the more contestable and decentralised regulatory regime provided opportunities for managements to divide and rule their staff. The extent to which unions are able to resist this management strategy will continue to depend on the extent of union organisation in any given agency.

Conclusion

This overview has argued that it is difficult to match the rhetoric of devolved public sector management with the practices of government in controlling and managing its own employees. This difficulty arises from the fundamental tensions that arise from reconciling the responsibilities of government as financial controller, as policy generator and as employer. As financial controller governments generally have sought to shift from a bureaucratic/administrative model of public governance to a more market oriented managerialist model. This shift has involved placing more direct responsibility for financial and personnel management on its managerial agents within the overall framework of government control. This process has become more problematical when attempts have been made to match the policy objective of decentralised industrial relations with the necessity for the maintenance of fiscal control.

There is little doubt that there have been significant changes in the management of the public sector. There have been varying attempts to match industrial approaches to NPM. The nature of the particular relationships between the industrial and the managerial have been contingent upon the extent to which it has been possible to match the process of decentralisation of industrial relations to managerial devolution, without compromising overall government control. In that sense the distancing of government from the provision of public services has been more apparent than real. The state has not 'withered away' (Fairbrother et al. 1998), although it has reduced its role as a direct provider of public services. The control of the remaining functions may have undergone a

process of apparent 'depoliticisation' (Fairbrother 1998b), but the reality of political control has not diminished. Public sector industrial relations in Australia may have been decentralised in an operational sense, but this has not diminished the control of government over its employees.

The forms of union organisation arose out of the engagement with the arbitral arrangements of the past and the long-standing centralised forms of wage determination and agreement. With the qualification of these arrangements in the late 1980s and the moves toward forms of enterprise bargaining, unions began to review their organisation and operation, but usually with uncertainty about the precise challenges they faced. In such circumstances, it was not surprising that there was considerable unevenness in union responses to these initiatives. It was also unsurprising that union leaderships, in most instances, tended to neglect the workplace as the principal site of union organisation and activity. Indeed recent moves within the CPSU to organise the union along sectional and functional lines, at the expense of the state branches, may have the effect of increasing centralised control of resource allocation without necessarily encouraging workplace-based organisation in a procedurally decentralised but still substantively centrally controlled public service bargaining environment.

There was the promise that more active forms of unionism were emerging in the public services during the late 1980s and the early 1990s. The problem was that the emphasis within unions was increasingly on involvement by national union leaderships in state structures, rather than on reconstructing unions on the basis of active and involved local memberships. The paradox is that the form of union participation sponsored by managers and the state in the late 1980s allowed the development of activism at the office level in ways that had not occurred previously. The dilemma was that this set of developments did not prepare the unions for the combined onslaught on the terms and conditions of employment and the representative base of these unions. Although state managers continued to look to union negotiation as a means of securing worker compliance with the continued restructuring of the federal state, the CPSU found it increasingly difficult to meet the challenge of change. Nonetheless, it can be

expected that these union memberships will continue to organise, suffer defeats and perhaps have occasional successes.

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