



Australian  
Human Rights  
Commission

*everyone, everywhere, everyday*

---

# Refining the Australian Public Service Values

.....  
Australian Human Rights Commission Submission  
to the Australian Public Service Commission

2 August 2010

---

## **Table of Contents**

<b>1</b>	<b>Introduction.....</b>	<b>3</b>
<b>2</b>	<b>Recommendations.....</b>	<b>3</b>
<b>3</b>	<b>Summary .....</b>	<b>3</b>
<b>4</b>	<b>Why should consideration of human rights be included in the APS Values .....</b>	<b>4</b>
<b>5</b>	<b>What did the National Human Rights Consultation find regarding human rights and the public sector?.....</b>	<b>6</b>
<b>6</b>	<b>What further measures are required to ensure adequate consideration of human rights by the APS? .....</b>	<b>7</b>

## 1 Introduction

1. The Australian Human Rights Commission (the Commission) makes this submission to the Australian Public Service Commission consultation regarding Refining the Australian Public Service Values.
2. The Commission welcomes this review of the Australian Public Service Values (APS Values) following the release of the Blueprint for Public Service Reform developed by the Advisory Group on Reform of Australian Government Administration. In particular the Commission welcomes the commitment of the Australian Government to consider revising the APS Values to affirm the importance of including consideration of human rights in policy making.<sup>1</sup>
3. The Commission discussed potential amendments to the APS Values in its submission to the National Human Rights Consultation.<sup>2</sup> This submission draws on that earlier work.

## 2 Recommendations

4. The Australian Human Rights Commission recommends:

**Recommendation 1:** The Australian Public Service Values should articulate the responsibility of the public sector to respect human rights.

**Recommendation 2:** The revision of the Australian Public Service Values to include the responsibility to respect human rights should be accompanied by a comprehensive public sector human rights education program.

**Recommendation 3:** All federal government agencies should take steps to ensure that they respect human rights by:

- preparing internal human rights action plans
- reporting on human rights compliance in their annual report.

## 3 Summary

5. The Commission's submission to the National Human Rights Consultation observed that a good system of human rights protection involves consideration of human rights at all levels, and by all branches, of government, with the aim of preventing human rights breaches.

---

<sup>1</sup> Commonwealth of Australia, *Australia's Human Rights Framework*, April 2010, p 6; Commonwealth of Australia, *Blueprint for the Reform of Australian Government Administration*, p 41.

<sup>2</sup> Australian Human Rights Commission, *Submission to the National Human Rights Consultation* (June 2009), paras 438-441. At [http://www.humanrights.gov.au/legal/submissions/2009/200906\\_NHRC\\_complete.pdf](http://www.humanrights.gov.au/legal/submissions/2009/200906_NHRC_complete.pdf) (viewed 30 July 2010).

6. One of the key building blocks of such a system is Australian Government decision-makers who respect human rights when implementing laws, developing policy and delivering public services.
7. The Commission believes that:
  - respect for human rights should be at the core of public service
  - human rights should be incorporated into public sector practices and procedures.
8. The Commission believes that the responsibility of public servants to respect and promote human rights in the performance of their duties should be articulated in the APS Values. This would greatly assist in integrating respect for human rights into the culture of the Australian public service.

#### **4 Why should consideration of human rights be included in the APS Values?**

9. The APS is at the front line of the Australian Government's interaction with people throughout Australia. Public authorities, such as Centrelink and Medicare, make many day-to-day decisions that impact on people's lives.
10. The Commission believes that requiring the public sector to consider and respect human rights would have a strong and positive impact on both the development of policy and the delivery of services. Public authorities would become more conscious of the impact their decisions might have on the rights of individuals and of their responsibility to ensure that these rights are respected. This greater awareness and understanding could prevent human rights breaches from occurring.
11. The Commission notes that the Australian Government's support for fostering human rights awareness in the Commonwealth public sector was outlined in the Human Rights Framework:

The Australian Government believes in a strong and apolitical public service with a values-driven culture that retains public trust and puts people first. A greater focus on human rights is important to ensure service delivery is focused on the people receiving the services.
12. The Human Rights Framework also states that:

The Government expects public sector officials to act consistently with human rights. It believes this is an important obligation bearing on their conduct and professionalism.
13. Finally, the Human Rights Framework observes that providing appropriate information and knowledge about human rights 'will have a positive impact on the development and implementation of Commonwealth policies, programs and services'.<sup>3</sup>

---

<sup>3</sup> *Australia's Human Rights Framework*, note 1, p 6.

#### **4.1 Consideration of human rights should improve law-making and policy development processes**

14. Including a responsibility for the public sector to respect human rights within the APS Values will contribute to better consideration of human rights in law-making and policy development processes.
15. The Commission believes that many human rights problems could be avoided if human rights were actively considered in the earliest stages of law and policy-making. In other words, some human rights breaches may not occur if law and policy makers were required to consider the potential human rights impacts of policies and laws before they finalised them.
16. In its submission to the National Human Rights Consultation, the Commission recommended a range of measures to ensure that human rights are adequately taken into account during law and policy-making, including that:
  - any policy submission put to federal Cabinet should be accompanied by a human rights impact statement
  - every bill introduced to Parliament should be accompanied by a statement of human rights compatibility
  - every bill should be scrutinised by a specialist parliamentary Human Rights Committee.
17. The Commission welcomed the recent introduction of the *Human Rights (Parliamentary Scrutiny) Bill 2010* and the *Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010* that establish a Joint Parliamentary Committee and include a requirement that bills introduced to Parliament be accompanied by a statement of human rights compatibility.
18. Including a responsibility for the public sector to respect human rights within the APS Values will assist in embedding the responsibility of the APS to respect human rights when developing law and policy.

#### **4.2 Consideration of human rights will improve public sector service delivery**

19. Active consideration of human rights will improve public sector service delivery.
20. Experience in the UK has shown that '[h]uman rights principles can help decision-makers and others see seemingly intractable problems in a new light'.<sup>4</sup> This is because active consideration of human rights provides a

---

<sup>4</sup> The British Institute of Human Rights, *The Human Rights Act: Changing Lives* (2008), p 5. At <http://www.bih.org.uk/sites/default/files/The%20Human%20Rights%20Act%20-%20Changing%20Lives.pdf> (viewed 7 June 2009).

framework to analyse, understand and ultimately resolve issues that may have at first seemed to be unresolvable.<sup>5</sup>

21. This framework should improve public service delivery by leading to more individualised solutions. This should reduce the level of complaints received and increase the effectiveness of the service.
22. In this way, consideration of human rights would positively impact on the lives of people in Australia in their regular, day-to-day contact with government departments and public services. It would strengthen Australia's human rights culture both in government and the general community.
23. Including a responsibility for the public sector to respect human rights within the APS Values will assist in ensuring that human rights are always considered in the delivery of public services.

## **5 What did the National Human Rights Consultation find regarding human rights and the public sector?**

24. During 2009, the National Human Rights Consultation Committee conducted a comprehensive consultation regarding the protection and promotion of human rights in Australia.
25. The Consultation Committee made a range of findings relevant to the revision of the APS Values. The Committee found significant concern amongst participants for the 'dignity of their fellow Australians, especially people with mental illness, the elderly, people with disabilities, people living in rural and remote areas (particularly in remote Indigenous communities) and children in need'.<sup>6</sup>
26. The Consultation Committee observed that during consultations:

it became clear that many of the human rights difficulties that do arise occur when ordinary members of the public have contact with public sector decision makers and service providers. Be it the Centrelink office, a police station, an aged care facility, a hospital outpatients department or an immigration centre, the public sector has an important role to play in safeguarding human rights ...<sup>7</sup>
27. The Consultation Committee reported that it heard 'strong support for the development of a human rights culture in the public sector' and observed that 'it was felt that this would lead to better integration of human rights in the development of legislation and policy, in administrative decision making, and in service delivery'.<sup>8</sup>

---

<sup>5</sup> Victorian Equal Opportunity and Human Rights Commission, *The 2007 Report on the Operation of the Charter of Human Rights and Responsibilities: First steps forward* (2008), p 6. At <http://www.humanrightscommission.vic.gov.au/publications/annual%20reports/2008charterreport.asp> (viewed 4 June 2009).

<sup>6</sup> Commonwealth of Australia, *National Human Rights Consultation Report*, September 2009, p 343.

<sup>7</sup> *National Human Rights Consultation Report*, above, p 143.

<sup>8</sup> *National Human Rights Consultation Report*, above, p 180.

28. The Committee found that there is a need for:
- a better understanding of and a commitment to human rights within government – in policy and legislative development and in service delivery<sup>9</sup>
  - better integration of human rights considerations into the development of legislation and policy and in the parliamentary processes.<sup>10</sup>

29. The Consultation Committee concluded that developing a culture of human rights in the public service would offer significant advantages:

Instilling a human rights culture in the federal public sector is integral to better protection and promotion of human rights in Australia. It would offer a number of advantages, among them better identification and resolution of human rights considerations in the development and implementation of policy and legislation; incorporation of human rights considerations in administrative decision making; and an approach to service delivery that better accommodates and responds to human rights concerns in the community.<sup>11</sup>

30. Measures that the Consultation Committee recommended include:

- incorporating human rights compliance in the Australian Public Service Values and Code of Conduct
- requiring federal government departments and agencies to develop human rights action plans, and report on human rights compliance in their annual reports.<sup>12</sup>

## **6 What additional measures are required to ensure adequate consideration of human rights by the APS?**

31. The Commission agrees with the Consultation Committee that the following steps would assist the public sector to adequately consider human rights in both developing policy and delivering services:
- better education of the public sector about human rights
  - the development of human rights action plans by federal government departments and agencies
  - reporting on human rights compliance in federal government agency annual reports.

---

<sup>9</sup> *National Human Rights Consultation Report*, above, p 149-150.

<sup>10</sup> *National Human Rights Consultation Report*, above, p 356.

<sup>11</sup> *National Human Rights Consultation Report*, above, p 186.

<sup>12</sup> *National Human Rights Consultation Report*, above, p 359.

## **6.1 Public sector human rights education**

32. In order to be effective, the revision of the APS Values to include respect for human rights should be accompanied by a comprehensive education program. Effective human rights education will provide APS officers with the requisite knowledge and skills to adequately consider human rights.
33. The Consultation Committee recommended that education be the highest priority for improving and promoting human rights in Australia.<sup>13</sup> In particular, it noted strong public support for better education of public officials who exercise powers of investigation, arrest and detention and perform other duties that are likely to adversely affect the rights and freedoms of ordinary Australians.<sup>14</sup>
34. The Commission welcomed the announcement that public sector human rights education is a priority within the Human Rights Framework:

The Commonwealth public sector education and training package will:

- raise awareness and understanding of human rights obligations
  - strengthen the capacity of policy and legal officers to develop policies, programs and legislation that are consistent with human rights, and
  - provide guidance to administrative decision makers on relevant human rights considerations to take into account.<sup>15</sup>
35. The Commission looks forward to working with the Australian Government in implementing a public sector human rights education program.

## **6.2 Human rights action plans and public sector reporting on human rights compliance**

36. The Commission also believes that public sector service delivery would be enhanced by the development of effective human rights action plans and by reporting on human rights compliance.
37. Adequate planning, auditing and reporting procedures are essential for the incorporation of human rights values into policy development and service delivery.
38. The Consultation Committee noted strong support for the development of human rights action plans. The Consultation Committee supported measures that involve greater human rights planning and compliance reporting by the federal public sector and suggested that periodic human rights audits of specific agencies and their practices would provide a useful measure for ensuring greater transparency and public accountability.<sup>16</sup>
39. Human rights action plans should specify how each department or agency intends to embed the consideration of human rights into their policies,

---

<sup>13</sup> *National Human Rights Consultation Report*, above, p 353.

<sup>14</sup> *National Human Rights Consultation Report*, above, p 354.

<sup>15</sup> *Australia's Human Rights Framework*, note 1, p 6.

<sup>16</sup> *National Human Rights Consultation Report*, note 6, p 185.



procedures and practice. Human rights action plans should then become the assessment and reporting framework for potential audits or annual reports on compliance with human rights.

40. The Commission notes the commitment in the Human Rights Framework to the development of a National Action Plan on Human Rights.<sup>17</sup> Departmental human rights action plans could form the basis of a National Action Plan on Human Rights.

---

<sup>17</sup> *Australia's Human Rights Framework*, note 1, p 7.