

Fourth estate or fifth column? Working with the media

Perhaps the most sensitive external group a secretary interacts with is the media. Particularly in the Howard Government years, any direct interaction had to be handled with great care. The relationship between politics and the media has always been critical and, also, essentially symbiotic. The Public Service and particularly departmental secretaries are inevitably affected by this relationship whether or not they have direct, personal contact with journalists. In my experience, one of the greatest changes in public administration during the past 30 years has been the increased importance and sophistication (and sensitivity) of communications management.

Elements of the relationship

The main ways in which departments and secretaries are involved directly or indirectly with the media are:

- the daily routine of monitoring stories, preparing briefs and liaising with the minister's office
- planning for communications to support program management and implementation of new initiatives
- presenting public speeches and publishing papers and reports
- responding to freedom-of-information (FOI) requests
- speaking directly to journalists and commentators.

Aspects of some of these elements have been discussed in Chapter 3 ('Working with ministers') and Chapter 6 ('Managing the department'), but they are of such significance as to warrant attention in their own right.

The daily routine

The daily routine starts with the circulation early each morning of *Media Monitors*—in my day, via stapled photocopies of all that day's newspaper stories relevant to the portfolio and a listing of other relevant media stories from radio, television and magazines (now the material is circulated online). *Media Monitors* are circulated to almost all SES officers as well as the minister and all advisers. The public affairs unit or ministerial support unit in the department organises this and ensures someone has scanned the stories at a very early hour in case of a big, breaking story possibly requiring response for early morning radio. I would normally scan *Monitors* when I arrived in the office about 8.30am. By 9am at the latest, the stories that seem likely to 'get a run' have been identified

and agreement reached with the minister's office on whether briefing is required for the minister.

Most days, I would not participate in this directly, although, by scanning *Media Monitors*, I was always ready to do so if I felt it necessary. Our Monday morning 'prayer meetings' of division heads and deputies would also have discussed expected media interest in the portfolio that week when identifying key issues (see Chapter 6), and helped to clarify our priorities.

The importance and urgency of ministerial briefings increased on parliamentary sitting days when Question Time Briefs (QTBs) were required. Division heads normally took responsibility for the quality of these and ensured liaison with the minister's office, but when big stories were running I would often intervene personally, along with the relevant deputy secretary. As mentioned in Chapter 3, in cases such as the 'Scan scam' and 'kerosene baths', we implemented a major project management approach.

The public affairs unit would also keep an eye on the media cycle during the day, as newspaper stories were followed up first by ABC radio and then by talkback radio, and in the evening by popular and in-depth public affairs TV.

In the Department of Health, this routine was a huge task. Stories on health appear in every newspaper every day, often with a page-one headline and usually with a headline on one of the first five pages. Ministers and secretaries must get used to this, accepting the environment without being panicked, but also discerning which stories need high-level attention and how best to respond. The political imperative is to dampen down the bad-news stories and the department's briefing certainly aims to help the minister achieve that. I always felt, however, that it was also important to inform and educate the public on complex matters of policy or management and encouraged the inclusion of background information if not in the brief itself then in an attachment. Mostly, this also reinforced the political objective of dampening down a crisis story.

Proactive communications management

Communications management these days also has a proactive element. Cabinet submissions usually include, as the first attachment, a draft press release indicating how the proposed measure might be presented to the public. This has long been the case, but now there is usually a more sophisticated communications strategy behind the press release and departments maintain a considerable continuing investment in capacity for market and other communications research and communications campaigns.

Table 9.1 Red and blue umbrellas: explaining lifetime cover

The decision to introduce unfunded lifetime community rating to replace the previous community rating regulation of private health insurance presented a considerable challenge for communications: how to explain a complex reform and how to maximise its effectiveness in meeting the government's objectives of increased private health insurance membership and more stable premiums.

Communications considerations had already influenced the detail of the reform, including its simple profile of increasing premiums by age (very broadly reflecting increasing health costs by age). The market research contributed to the strategies for involving pharmacists and GPs extensively, as these were the main groups people said they would turn to for independent advice. The research also contributed to the name 'lifetime cover' as an accurate, simple and positive reflection of the reform.

The communications strategy drew on expert advice from the industry and elsewhere on the time needed to inform the community and allow them to make a considered decision, noting the potential negative impact on those who delayed deciding beyond the deadline set.

It also built on the earlier communications strategy surrounding the private health insurance tax rebate involving red and white striped umbrellas signifying 'cover'. (That strategy included government advertising and complementary advertising by the industry and individual funds, all using the umbrellas.) The new strategy introduced blue and white striped umbrellas.

The scale of government advertising was clearly a political decision, though the department certainly agreed considerable advertising was needed. The department was satisfied that the content of the advertisements and related material was non-partisan and genuinely informative.

Our strategic plan usually highlighted communications as a 'key results area' for effective management of the department. We then had a complementary communications plan, which identified the broad policy approach and infrastructure we needed (for example, corporate image and badging, profile, web site role, ministerial correspondence arrangements, research, information, public relations skills) and the mandatory processes for specific communications strategies around, for example, any major government initiative.

During my time, the department did not conduct its own regular market research on public attitudes to its programs or administration. I can see a case for that

for agencies in the business of directly delivering services, but am also mindful that it would be easy to cross the line in providing the governing party with privileged information that might be used for partisan purposes. We did, however, use market research extensively in most communications strategies for specific initiatives.

With the advent of the Internet, departmental web sites have become critical to the communications effort. Departments have learned that these sites require more effort than being a dump for their hardcopy publications and have invested in clever architecture and sometimes more active two-way communications through online, almost real-time exchanges, complementing ministerial and departmental correspondence. This has also led to the development of rules to separate departmental from ministerial sites, to preserve the political neutrality of departments and careful design to dampen expectations of unrealistic speed, accuracy and comprehensiveness of responses to individual queries.

Speeches and publications

I always took the view that one of the roles of a secretary was to make public speeches to explain the background to government policies and to promote informed discussion of the issues involved, without either directly promoting the government's policies or undermining them. I similarly favoured publications by the department disseminating facts about the programs, presenting departmental research and canvassing some of the more technical issues underpinning policies and programs. These served the department as well as external players and the public, by forcing a discipline on our analysis and opening our work up to external, expert examination.

Table 9.2 Health Occasional Papers

Between 1997 and 1999, the Health department issued five papers in its first series of Occasional Papers. These covered:

- national leadership through performance assessment
- family and community services: when is competition the answer
- a healthy start for zero to five year olds
- compression of morbidity workshop papers
- an overview of health status, health care and public health in Australia.

I was keen to promote more informed discussion of health financing issues generally and advised the minister on a number of occasions that some form of public inquiry or review would be helpful, perhaps by the Productivity Commission (notwithstanding my initial opposition to its 1996 inquiry into private health insurance). He took a more cautious

view, fearful that this could set hares running and reduce his capacity to manage the policy agenda. When he again rejected my proposal after the 1998 election, I decided the department might take some action to fill the gap, albeit without advocating any policy directions either generally or specifically.

It was a delicate matter, but it did lead to an excellent special series of Health Financing Occasional Papers, prepared under the leadership of one of the deputy secretaries, David Borthwick. The papers published between 1998 and 2000 included:

- Health financing in Australia: the objectives and players
- International approaches to funding health care
- Health expenditure: its management and sources
- Public and private: in partnership for Australia's health
- Technology, health and health care
- The quality of Australian health care: current issues and future directions
- *Health financing and population health.*

Another occasional paper on health financing, *Reforming the Australian health care system: the role of government*, was also issued in 1999, but was not formally part of this series.

The papers received many plaudits, including from Ross Gittins in the *Sydney Morning Herald*, and caused no political damage. Their existence, however, did require some resilience by me and the department in the face of some unease among the political staffers.

Freedom of information

The secretary may also become personally involved in managing FOI applications when they involve politically sensitive information. I delegated authority under the legislation, but was occasionally drawn in either by a delegate or (more often) by the minister or minister's office. I did not ever withdraw a delegation, but I might have sought clarification from the delegate of his or her assessment of the case for or against release.

Ministers and their advisers are understandably concerned to minimise political damage and do not always appreciate public service advice on the requirements of the legislation or common law understandings of the public interest where that is a factor (for example, internal working documents may not be released only if it is not in the public interest not to do so). Sometimes, however, they do understand that delaying the inevitable often exacerbates the problem.

Table 9.3 FOI can become very personal

I was accompanying Michael Wooldridge on a visit to the United States when, on the way to an important meeting one morning, he turned to me in the car blasting me about the department betraying him and lying to his office. I had no idea what he was on about until the adviser explained that it concerned an FOI request. The department overnight had released information requested about the minister's personal expenses in the form of all the various receipts for expenditure. The media back home was having a field day about such things as champagne with the AMA president after settling some negotiated agreement.

I contacted my office and sought the background. The minister remained furious all day, convinced of the department's disloyalty and unilateral action. Having finally obtained the full story, I went to the minister's hotel room late in the evening, a bottle of red wine (bought with my own money) under my arm. The staffer was with him.

I accepted responsibility for the department not forewarning the minister or his office of the precise time the information would be released, but advised that his office was aware of the request and the information to be released. I also noted that the FOI request followed the minister's continued refusal to answer a related Question on Notice, a reply to which we had drafted on several occasions.

The minister was not much mollified (given the continuing media fun and games), but said he appreciated my gesture and accepted it was my role to defend the department. I bit my tongue, waiting until the staffer and I had left his room to hand the adviser copies of all the emails I had. These detailed the extent of communication between the department and the office over several weeks, including the collation and verification of documents by the office, consideration of what had to be released under the law and the deadlines under the law for release. I told the staffer: 'You now know what I did not tell the minister: I could have nailed you and the office on this. There was no lying by the department or any disloyalty to the minister. You guys clearly did not keep the minister informed.'

Perhaps I should have been more forceful with the minister, but this way I won important credit with the office and greater cooperation from then on. I doubt the minister forgave us, however.

Direct contact with journalists

The department's standard rules were that contacts with the media would be referred to the public affairs area and/or the minister's office. By agreement with the office, some matters would be handled by the department, particularly if they were merely factual or related to a matter of administration or professional expertise where the general line to be used had been discussed with the office. For example, the Chief Medical Officer frequently commented publicly on public health and medical issues and the departmental delegate making a decision under a law might be the one to announce and explain the decision if there was media interest. Any policy matters or sensitive administrative matters would be handled by the minister's office.

Notwithstanding these rules, which I established in line with ministerial directions, I occasionally spoke directly to journalists without formal clearance. Generally, this was with journalists seeking background to current issues rather than information for an immediate news story. For example, I had conversations with Ross Gittins on the analysis behind the lifetime cover reform to private health insurance. Background conversations with journalists occurred up to once or twice a month, but mostly much less often. (I had many years earlier developed a good relationship with Gittins, who was keen to understand the background to policy decisions on social welfare as well as economics; he never betrayed the trust between us.)

More problematic were the calls from reporters such as Michelle Grattan on a breaking, high-profile story. These I ducked as a rule, though on occasions, again, I provided some background, particularly for follow-up commentary columns. (Grattan also never betrayed my trust, but her focus on politics made any contacts more risky.)

Differences of approach

Health has a much larger load in dealing with the media than most portfolios. It receives more headlines that it must respond to, its programs affect every member of the public and it has responsibilities in health promotion. Other line agencies might have smaller workloads, but most are involved in each of the elements I have described. Agencies directly delivering services are these days very extensively involved in sophisticated communications management, including through the use of the latest technology.

The central agencies' role varies. The Department of PM&C has the job of monitoring the media across all government activities and providing the Prime Minister with briefings on any of them. They, however, have limited involvement in broader communications management. Treasury under the Howard Government was drawn into preparing more briefs for the Treasurer than in the past, but the load on the Finance department seemed still to be relatively light.

Some departments are expected to deal directly with the media more often than others, perhaps related to the operational nature of the work (for example, the departments of Defence, Foreign Affairs) or to their expert roles, which are almost statutorily independent (for example, the Treasury Secretary).

More important, however, are the attitude of the minister and the personal style of the secretary. Ken Henry (Treasury Secretary) evidently has more licence from his minister under the Rudd Government and is a confident public speaker, but his public role is still a long way from John Stone's regular and frank briefing of the press in the 1970s and early 1980s. In my time, the secretaries who most often made public speeches were Allan Hawke (defence), Peter Shergold and I.

Recent changes: the 24/7 news cycle

As mentioned, the power and reach of the media have increased dramatically during the past 40 years and, in response, the professionalism of the political process has grown, leading to greater control and increased sophistication of communications management. The relentless constancy of media attention—the 24/7 news cycle—now demands enormous resources and skills in government, which secretaries help to marshal and manage.

Technological developments in the communications field have also changed the way programs are managed.

Politics and the media have always been intertwined, with politicians sensitive about public servants' public statements and public servants usually favouring anonymity. Anonymity is harder to maintain nowadays, while the task of communications management is too great to be left entirely to the political arm of government.

Issues arising

The key issue is the respective role of the political and administrative arms. Ministers are concerned to maintain closer control and that control is increasingly centralised around the Prime Minister and his office. There is nonetheless a major role for the administrative arm as part of program management, as well as lending legitimate support to ministers.

Excessive political control can constrain the capacity of public servants to serve the public interest in making information available, publishing documents and giving speeches. The Public Service also needs to take care not to have its communications resources devoted to partisan purposes. As mentioned, market research in particular can be used for partisan purposes and secretaries need to be confident that taxpayer funding for such research is justified and can be defended in Senate Estimates hearings.

A particular case in point concerns the sensitivities around senior public servants speaking directly to journalists: few do it nowadays and those who do, do so

less frequently and less openly. Similarly, secretaries make fewer public speeches these days than in the past. I think this is unfortunate, while agreeing firmly that care is needed not to betray the minister's trust and accepting there is a risk of misrepresentation by the media in order to create controversy. (I also believe it is wise for secretaries to try to avoid a high media profile, so that I do not favour them appearing before the National Press Club.) Seeking permission every time is also not really sensible: it can lead to unnecessarily cautious responses. While I have been pretty cautious, I believe secretaries should draw on their experience and judgment, recognising there is public interest in helping to explain government policies and to provide impartially some of the underlying analysis and research. Ministers should also recognise the professional standing and experience of their departmental secretaries and allow them some latitude on the understanding there will be discussion between them on handling politically sensitive matters.

Nonetheless, there is no easy answer here and sometimes even the most carefully considered comments to the media can blow up into political embarrassments. That is why some secretaries are just not willing to take any risk. My preferred approach, which occasionally got me into trouble when the media misused or exploited my comments or speeches, was just to wear it and move on, learning from the experience about who to trust and when and how to speak. I suspect most ministers and their staffers, however, would prefer a more cautious approach.

Table 9.4 Caught between a rock and a hard place

I accept I made an error of judgment at a late stage of the MRI scandal and yet I am still unwilling to shoulder all the blame.

Minister Wooldridge had tabled a statutory declaration by a departmental officer to support his statements that he had not divulged unauthorised information at a meeting with radiologists shortly before the 1998 budget. A radiologist subsequently wrote to the officer noting an omission in the declaration about his own presence at the meeting. I informed the minister.

Sometime later, a journalist and photographer camped outside my officer's home, evidently aware of the problem with the statutory declaration. I rang the journalist to ask him to back off, that it was unfair to put a public servant under such media pressure. He agreed to do so if I would answer his questions: was I aware of the error in the statutory declaration and had I informed the minister.

I said yes to both questions and then immediately rang the minister's office. The front-page story the next day reported my answers and the

minister's failure at that point to correct the parliamentary record. The minister and his office felt I had been more keen to protect my staff than to support the minister. I can see their point and agree I should have rung them first, but had I done so the story would have been essentially the same, and appeared the same day, and with no less prominence, and the officer would have been under unfair public exposure and criticism as well.

Table 9.5 Slaps on the wrist

After the government introduced the 30 per cent rebate on private health insurance premiums, I was invited to speak at a public conference of private health insurance and private hospital executives in Canberra. I gave the conference participants some background to the government's policies on private health and Medicare, noting how important it was that the industry also took action to ensure its members got value for money and used competition among hospitals to do so. If they did not, and premiums again began to increase, the benefits from the new rebate would be put at risk.

The speech seemed to be well received and follow-up questions were sensible. There were no press stories for about a week. *The Australian* then decided to give it a beat-up with a headline that I was questioning the merits of the rebate.

The Prime Minister's Office called me directly to ask whether the speech had been cleared by the minister and accusing me of improperly speaking on behalf of the government. I had not formally cleared the speech, but had sent a copy to the minister before it was delivered. The minister later told me it was a good speech, as it was important to put some responsibility back on the industry. The journalist rang to apologise for the headline on the story, but I was under no illusion: the view of the Prime Minister's Office was that secretaries should not give public speeches unless formally cleared by ministers beforehand, and even then they were frowned on.

A related issue concerns how proactive media management should be. I recall a presentation at one portfolio secretaries' retreat by a former Fairfax executive, which included the advice that governments (and departments) should supply positive news stories to crowd out negative stories. Health was cited as an example, where the public interest in health led to the allocation of considerable space and time by media outlets to stories of interest, which, if not filled with interesting material on medical breakthroughs or heart-warming stories of

selflessness or courage or success through adversity, would be filled with stories of crises and hospital errors and so on. Some politicians and their media advisers might play that sort of game, but most of us were not persuaded that this would be consistent with the values of the Public Service.

The popular image already is that communications management is more often about spin than substance. The image might be a caricature, but nonetheless represents a real issue. Apart from the need for communications management not to be partisan (for example, through the level or nature of taxpayer-funded advertising and research), it is important not to allow media management to lead to excessive focus on short-term populist measures and insufficient consideration of the longer-term public interest and options that might serve that interest.

It is here that the media can be simplistic and self-interested. There is public interest in some limits to access to information. Politicians might try to press this too far, but equally the media often does not acknowledge the public interest in government having reasonable time and space, without the public constantly looking over its shoulder, to consider complex issues, canvass options widely, have frank discussion within the bounds of collective responsibility and receive frank and fearless advice from officials and political advisers. The press rarely if ever condemns someone who leaks confidential information, notwithstanding the breach of trust involved, and seems unable to recognise the irony of its own insistence on preserving the anonymity of its sources of information.

Secretaries, however, need to be careful to ensure decisions on access to information are made according to the law. If they or their officers hold the delegation, they must make their own judgments as delegates weighing up the public interest where appropriate without direction from ministers. In my time, I saw too many secretaries spend too much time trying to please their ministers by exploiting exemptions under the *FOI Act* or not keeping records, rather than acting with genuine impartiality and in the public interest.

Ministers are understandably uncomfortable about revelations, through FOI requests or other processes, of advice they have not accepted, which proves to have been sound or of events or reports that are embarrassing and hard to explain. Several warned me on occasions that public access to departmental advice would lead them to insisting on advice being oral only with no records that could be subject to FOI requests. I never took this too seriously, though no doubt I did dampen the forcefulness of some of my written advice and the tenor of records of some discussions in more recent years. I do not believe the courts systematically undervalue the public interest in keeping certain deliberations confidential; more likely is that ministers, and their public service advisers, undervalue the public interest in openness.

Table 9.6 Legal options to limit FOI versus legal obligations to create and maintain records

A meeting of all departmental secretaries in 2004 discussed concerns about the media campaign, led by *The Australian* newspaper, to challenge decisions (including the issuing of ‘final certificates’) to exempt documents from FOI. Discussion focused first on the definition of ‘documents’ and then, when the meeting was advised by Rob Cornall (Secretary of the Attorney-General’s department) that the legislation implied a wide definition, discussion turned to ways of limiting the number of documents held that were not unequivocally exempt from public release. Keeping diaries was firmly discouraged, those with ‘day books’ or similar were advised to destroy them at the end of each week or fortnight and it was suggested that good practice was to systematically review document holdings to destroy draft papers that were no longer essential for future work. Where possible, policy documents were to be managed as cabinet papers, which were exempt.

One secretary went so far as to boast that he never kept written records of conversations with the minister, but reported back to his departmental officers orally on decisions made and action to be taken.

Cornall was asked to provide further legal advice on how to gain exemptions from FOI coverage.

I expressed concern that the conversation was so one-sided. I noted the Auditor-General had frequently criticised the lack of adequate record keeping and asked Cornall to give us legal advice also on the obligations of public servants to make and to keep records. Cornall agreed that this was a sensible request. (As I recall, the subsequent advice provided was that there was no explicit obligation to create records, though the *Public Service Act* and the *Financial Management and Accountability Act* arguably implied some such obligation—for example, through the value of ‘open accountability’; the *Archives Act* certainly constrained the destruction of records once created.)

I also asked the secretary who claimed he did not keep records how he expected his staff to carry out the minister’s decisions, which he had relayed orally. Surely effective management, let alone the obligation of accountability, meant someone would make a record of the decisions.

A year later, when I was working in the Department of PM&C, I was intrigued by the systematic trawling of files, official and unofficial, to destroy ‘surplus’ copies of draft papers and other papers not essential for recording the decision-making process. There were also systematic

arrangements to tie as much policy advice to cabinet papers as possible. The processes did not involve the destruction of any key documents, but were clearly aimed at limiting the risk of FOI (or parliamentary) requests for working papers being upheld.

A less significant but fascinating management issue in communications and media relations is handling the culture of good public affairs staff. The fact is, the best such staff are not like traditional public servants. They are often extroverts, do not like rules and processes, abhor authority, cut corners and speak out of turn. Any attempt to corral them, however, let alone replace them with classical bureaucrats, runs the risk of losing their creativity and effectiveness in their jobs. I tried, not always successfully, to give the public affairs unit some licence under the leadership of an older, more experienced person with media nous. On a couple of occasions, things went badly and I had to pursue disciplinary action against individuals who misused resources, but on the one occasion (in the Housing department) when I intervened more forcefully to impose much firmer controls, the downside was far worse, with the loss of several of my most talented and creative people.

Lessons learned

It is important to gain the minister's confidence in the department's handling of communications and this requires having a capable unit in the department that works closely with the minister's office. Having rules requiring everything to be cleared through the minister's office is not good practice in my view, and is certainly not a sign of confidence in the department.

Secretaries need a thick skin, particularly in departments such as Health, where stories of scandals and crises happen every day. They also need, however, political antennae to judge the stories that are likely to 'run' and require high-level, careful responses and management.

Secretaries also need access to expertise within and outside the department in communications management, including in the best use of new technology. A big part of the secretary's role is to clarify the integrity standards involved, particularly regarding political neutrality and value for money.

It is important for secretaries to give public speeches from time to time, particularly in large and complex portfolios where policies and programs need more public explanation than can ever be delivered by ministers. It is also important to maintain publications of research and statistics and background policy analysis. If the minister is not comfortable with this, alternatives need to be found, such as contracted research (with some independent capacity to publish) or the use of a statutory honest broker (such as the AIHW). Confidential discussions with external experts and stakeholders are useful but not sufficient,

in my view, either to ensure departmental advice is well informed or to ensure public understanding of the issues.

Secretaries also have a role to play at times in speaking directly to journalists. I am not sure it is wise to seek permission formally to do so as the official answer is likely to be unnecessarily restrictive. There is, however, a risk of such discussions going wrong and hence of undermining the confidence of the minister.

Looking forward, I suspect this is an area for more careful review and guidance. The Public Service Commissioner has issued more and very useful guidance in the area since I left the service, but I am not sure it recognises sufficiently the public interest in public access to the expertise and experience of public servants whether through departmental publications or through occasional background briefing, not managed directly by ministers. Public interest would not be served if this access led to loss of confidence of ministers in their departments.