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5 November 2010

Stephen Sedgwick
Australian Public Service Commissioner
Australian Public Service Commission
Level 5, Aviation House, 16 Furzer Street
Phillip ACT 2606

Dear Mr Sedgwick

Discussion Paper on 'Proposing a New Set of Australian Public Service Values'

Thank you for the invitation to comment on your recent discussion paper, entitled *Proposing a New Set of Australian Public Service Values*.

Set out below are our comments. These brief comments should be read in conjunction with our submission of July 2010, entitled *Human Rights and Public Service: Improving Processes, Delivering Better Outcomes*.

As set out in our submission of July 2010, the Human Rights Law Resource Centre considers that the APS Values and Code of Conduct should explicitly require that the Australian Public Service 'actively respects, protects, promotes and fulfils human rights'. In that submission, we set out both the *need* to include human rights as an APS value, and the *value and benefit* of doing so.

We are concerned that the value of actively promoting human rights is not adequately enshrined in the values proposed in your discussion paper. At present, the proposed values include 'Respectful' or 'Respect' and the discussion paper sets out that this value

is intended to underpin all relationships, both external and internal. It reflects that public servants regard all people as having value and worth....Where respect is the underlying principle for treatment of all people, it also encompasses respect for, and promotion of, human rights. A value of Respectful embraces the principle that people are individuals, and that their rights should be recognised.

In our view, the term 'Respectful' and the description thereof primarily describes the way in which people should be treated by and within the APS. However, while 'Respectful' is an important value, and should be retained, it does not adequately reflect or encapsulate the following:

- First, 'Respectful' does not adequately reflect the legal duty of the APS not only to 'recognise' that people have rights and to respect those rights (that is, not to breach those rights), but for the APS to take active and concrete steps to

- promote human rights – that is, to inform and educate people about their human rights;
 - protect human rights – that is, to protect people from human rights breaches by third parties; and
 - fulfil human rights – that is, take necessary steps and measures to ensure that people are able to fully realise their rights, which may require special steps and measures in the case of people who are marginalised or disadvantaged.
- Second, 'Respectful' does not adequately reflect the significance, relevance and value of human rights not only to customer service delivery but to the design, development and implementation of policy and programs.
- Third, 'Respectful' does not sufficiently encapsulate the importance of *actively fulfilling* human rights, rather than merely passively respecting human rights, through all aspects of Australian public service.
- Fourth, 'Respectful' does not adequately respond to the spirit or intent of:
 - the recommendation of the National Human Rights Consultation Committee that 'the Federal Government incorporate human rights compliance in the APS Values and Code of Conduct'; or
 - the commitment of the Australian Government, through Australia's Human Rights Framework, to 'consider appropriate recognition of the need for public servants to respect human rights in policy making in any revision of the APS Values or Code of Conduct'.

Finally, the explicit incorporation of a value of 'Human rights' (as compared with an implicit inclusion of that value through the term 'Respectful') would:

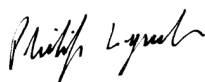
- have normative and educative benefits; and
- correspond to the finding of the National Human Rights Consultation Committee that 'instilling a human rights culture in the federal public sector is integral to better protection and promotion of human rights in Australia'.

In light of the above, the Human Rights Law Resource Centre strongly encourages you to:

- revise the proposed values to explicitly include '**Human rights**' as a value; and
- include a 'supporting statement to provide additional context and expand on the intended meaning of the value' as follows: '**We actively respect, protect, promote and fulfil human rights**'.

Thank you again for the opportunity to comment on the proposed values. We would be pleased to discuss any of the issues raised in this letter further.

Yours sincerely



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