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ruth in government and  
the politicisation of public  
service advice

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### **Abstract**

Recent controversies, eg over intelligence in Iraq, have raised problems about the politicisation of official advice, particularly the supposedly factual or objective elements of advice. Objectivity is a contested value and the lines are often hard to draw between bare fact, spin and misrepresentation. Public servants are held to higher standards of objectivity than politicians, a fact on which politicians trade when they seek to attribute assessments of evidence to their officials. The growing openness of government documentation is placing pressure on departmental officials who wish to be both loyal to their political masters and honest in their factual assessments. These issues are discussed with reference to recent Australian experience (and also with reference to the UK Hutton inquiry).

**TRUTH IN GOVERNMENT AND THE POLITICISATION OF PUBLIC  
SERVICE ADVICE**

Richard Mulgan

(Forthcoming in *Public Administration*)

**Abstract**

Recent controversies, eg over intelligence in Iraq, have raised problems about the politicisation of official advice, particularly the supposedly factual or objective elements of advice. Objectivity is a contested value and the lines are often hard to draw between bare fact, spin and misrepresentation. Public servants are held to higher standards of objectivity than politicians, a fact on which politicians trade when they seek to attribute assessments of evidence to their officials. The growing openness of government documentation is placing pressure on departmental officials who wish to be both loyal to their political masters and honest in their factual assessments. These issues are discussed with reference to recent Australian experience (and also with reference to the UK Hutton inquiry).

I

Public officials in a number of jurisdictions have recently come under fire for providing false or misleading information in support of government policies. Most salient has been the highly controversial issue of the alleged Iraqi weapons of mass destruction (WMD) where governments in the United States and the United Kingdom were determined to base their decision to invade Iraq on unimpeachable evidence that Saddam Hussein possessed such weapons. In consequence, their respective intelligence agencies were placed under extreme pressure to provide evidence to back up the claim and to give at least tacit support to misleadingly confident assertions about the existence of such weapons. The Australian government, too, as a junior

member of the 'coalition of the willing', also became implicated in the publication and endorsement of questionable intelligence. In Australia, the issue of truth in government had earlier become entangled with the federal election in 2001 as part of the so-called 'Children Overboard' affair. A false media report, that illegal immigrants had thrown their children into the sea in order to be rescued by the Australian navy, went uncorrected during the last four weeks of the election campaign, even though public servants knew within days of the original report that there were serious doubts about its accuracy (Weller 2002, Marr and Wilkinson 2003, Uhr 2005, ch 5).

Such cases raised the issue of whether public servants were crossing a line between acting as the government's professional advisers to becoming its partisan defenders. Instead of advice being independent and balanced, critics claimed, it was slanted in the government's favour and was being used to advance the political fortunes of the political party in power. In the words of the opposition Australian Labor Party's 2004 election policy document on the public service, the Coalition government had 'politicised' the public service, 'weakening the capacity of public servants to give frank and fearless advice' and intimidating officials into agreeing with government policy 'even if such statements do not accord with their objective statements' (Australian Labor Party 2004).

The main aim of this article is to examine the force of such criticism, by analysing the line between impartial advice and partisan advocacy within a broader context of the supposed 'politicisation' of the public service. What counts as truth or objectivity in advice? Can the very concept of truth or objectivity in politics make sense in a post-positivist world-view? Is politicised distortion or misrepresentation a result of pressure from politicians or self-motivated? Does politicians' public

attribution of evidence to supposedly independent officials provide an added pressure towards the politicisation of such evidence? Do public servants have an ethical commitment to the accuracy of the public record? Finally, what if any connection is there between the politicisation of advice and politicisation of the appointment process. Most of the examples quoted come from the Australian Public Service but reference is also made to the United Kingdom and the Hutton inquiry (Hutton 2004).

## II

The concept of public service ‘politicisation’ is to be understood within the context of the values associated with a professional public service. In order to be able offer the same degree of loyal service to governments of differing political persuasions, professional public servants are expected to maintain a certain distance from the concerns of their political masters. ‘Politicisation’ is the term used to describe the erosion of such distance. It marks the crossing of a line between proper responsiveness to the elected government and undue involvement in the government’s electoral fortunes. The term is inevitably slippery in meaning because the line itself is often blurred and hard to draw and because charges of politicisation are often part of adversarial political rhetoric. But politicisation remains useful a useful analytical concept, signifying the need to protect public service professionalism and to set limits to the partisanship of public servants.

Politicisation is invoked in two general areas: in relation to the methods of appointing and dismissing public servants and in relation to the activities in which public servants engage. Most academic discussion has been concerned with issues of appointment and tenure, especially of department heads and other senior officials (eg Weller 1989, 2001, Rhodes and Weller 2001, Peters and Pierre 2004). But the significance of these appointment issues is grounded in concerns about public service

behaviour. Politicised appointment processes, it is hypothesised, will encourage politicised actions on the part of public servants. In particular, politicised appointments will undermine the traditional political neutrality of career public servants and their capacity to give ministers advice that is free and frank (or ‘frank and fearless’ in the Australian version). It is this latter aspect, the alleged contamination of public service advice by concern for the partisan interests of the government, which has been the focus of most recent public complaint and which forms the main focus of this article.

‘Advice’ is a compendious, catch-all term for all communication between officials and their political masters. It includes a variety of different types of subject matter and genres, including policy options, draft letters and speeches, background briefings, progress reports on government activities and so on. Much of this is heavily political in the sense that it is delivered within the context of the government’s political agenda. In the words of the guidelines issued by the Australian Public Service Commission,

good advice from the APS [Australian Public Service] is unbiased and objective. It is politically neutral but not naïve and is developed and offered with an understanding of its implications and of the broader policy directions set by the government’ (APSC 2003).

The concept of ‘neutrality’ cannot be taken literally. The public service is not neutral between the government and the government’s opponents but is, in fact, obliged to serve the government party, often against the interests of its opponents. Indeed, departmental officials have always been expected to take their policy lead from their political masters and to tailor their advice to the policy priorities of the government of the day. Political neutrality, as usually understood, requires public servants to abstain from only that degree of partisanship which will compromise their capacity to serve alternative governments with equal loyalty. By convention, public

servants tend to reserve their partisan advice for ‘policy’ matters (eg how to achieve the government’s partisan objective) and to abstain from ‘party’ matters, such as political campaigning, leaving the latter to political advisers who serve only the minister or government of the day. But the line is never clear-cut and professional public servants in Westminster systems often engage in highly partisan activities, for instance, drafting speeches and letters defending government decisions and helping to prepare their ministers for the cut-and-thrust of parliamentary questions. Most of this partisan advice, significantly, is conducted anonymously behind the scenes, with politicians left to take public responsibility (a point which will be returned to later). Provided that individual public servants are not openly identified with particular items of partisan advice, their capacity to offer equally partisan support to a subsequent government from another side of politics is not seriously compromised.

Current debates about the politicisation of public service advice, however, do not depend on a comprehensive answer to the complex question of how far public servants should go in their partisan assistance for the government of the day. Instead these debates centre on only one aspect of advice, that concerning ‘evidence’ or ‘information’. The focus is on statements of supposed fact where issues of truth and falsehood arise and where public servants can be expected to obey the injunction to be ‘unbiased and objective’, in the words of the Australian guidelines. For instance, the politicisation of advice alleged in relation to the Iraq WMD or the Children Overboard refers to the supposed distortion or falsification of the truth about these events. Such factual elements are an important component of public service advice but by no means the only component. Advice also includes other such matters as policy options or recommendations where questions of truth and objectivity do not arise.

Admittedly, politicisation or undue partisanship is also possible in relation to policy recommendations. For instance, public servants would not usually recommend the more blatant forms of partisan attack, such as the leaking of personal information on opposition politicians (leaving such ‘party’ matters to political advisers). But where the line is to be drawn between duly and unduly partisan recommendations is not at issue here. The main concern is with supposedly factual statements or evidence which contain deliberate falsehoods or misrepresentations of the truth designed to serve the partisan interests of the government. Such falsehoods and misrepresentations do not exhaust the possibilities of politicised advice but they constitute a clear and important category of such advice.

Though the factual elements of advice are assumed to be distinguishable from the broader political context within which they sit, in practice they are closely related. Normative policy positions typically depend on certain factual assumptions and can be weakened by the falsification of these assumptions. Thus, the supposed factual existence of Iraq’s WMD was crucial to the official case for the invasion of Iraq. Any questioning of this proposition was therefore potentially damaging to the various governments that supported the invasion. Governments regularly adopt and sustain policies for political reasons that have little to do with the stated evidence. In such cases, government-provided evidence becomes the official rationale for decisions rather than part of their actual justification. Hence, the motive for the politicisation of factual advice. Governments are often looking for evidence that will best support their predetermined policies rather than the best evidence on which to ground their yet-to-be-determined policies. The war in Iraq and the related intelligence information is a classic case of a policy position in search of evidence.



Distortion and politicisation of the factual elements of advice can include negative as well as positive misinformation, when the truth is suppressed in order to create a false impression (*suppressio veri suggestio falsi*). The Children Overboard Affair is a good example of misrepresentation through the deliberate suppression of evidence. Known doubts about the reliability of the original story were not formally conveyed to the Prime Minister, thus allowing him to sustain public support for the story through the all-important final days of the 2001 election campaign. To the extent that public servants as well as ministerial advisers were involved in the suppression, their advice can be described as involving politicised misinformation – truth misrepresented to suit to the partisan interests of the government. Indeed, the whole practice of plausible deniability, by which political leaders are deliberately kept in the dark in order to be able to deny personal knowledge and therefore responsibility for disreputable decisions (Ellis 1994), can be seen as a form of politicised misinformation. Officials connive in a deliberately incomplete and therefore misleading version of events in order to deceive the public and save their leaders' reputation.

### III

On this analysis, the accusation of politicised information or evidence assumes a logical distinction between statements of fact or empirical statements, which can be true or false and therefore subject to distortion and misrepresentation, and statements of value or recommendation, which are more subjective and contestable. Such a distinction is itself epistemologically contestable and is, indeed, illegitimate from some philosophical standpoints, for instance those of post-modernists and anti-positivist critical theorists who deny the possibility of objectivity. These theorists claim that, because all advice takes place within a political context, it is inevitably

coloured by that context. All language is part of some discourse and every discourse reflects a particular dispensation of power, actual or preferred, and therefore a particular political standpoint. From this point of view, all language is politicised and the search for unpoliticised 'unbiased and objective' evidence or information is fruitless and naïve.

The objection can be countered in various ways. One is by a simple assertion of common sense, that truth/falsehood and objectivity are taken for granted in everyday discourse and that the notion of distorting or misrepresenting truth for partisan purposes makes obvious sense within that discourse. A statement that Iraq possessed weapons of mass destruction or that children were thrown overboard is either true or false and is therefore capable of being distorted for political reasons. Conversely, a statement that Australia was right to join the United-States-led coalition of the willing is not a matter of truth or falsehood, because it is based on contestable political values, such as the importance of the United States alliance to Australia. Those who wish to deny any vital epistemological distinction between the two types of statement are not only flying in the face of public opinion. They are also dealing themselves out of any right to complain of falsehood, bias or misrepresentation on the part of governments.

A philosophically more sophisticated response might acknowledge that objectivity itself, though not illusory, is not incontestable. 'Brute' facts may be relatively straightforward but many empirical statements and much so-called 'information' contain contestable elements which can be the subject of legitimate disagreement. For instance, the meaning of the terms themselves may be in dispute, as, for instance, in what counts as a weapon of mass destruction. Secondly, once definitional issues are settled, the evidence itself may be ambiguous and inconclusive,

as in the existence of WMD. Here, where the truth is unclear, the requirement of objectivity cannot be met by just a simple obligation to tell the truth and avoid falsehood. Objectivity and impartiality imply much more: an open-minded attitude in the assessment of evidence, balance and lack of bias in the selection and weighing of known facts, and caution about drawing stronger conclusions than the evidence will reasonably support.

These characteristics provide the standards of evidence and argument commonly accepted, for instance, by social scientists of positivist leanings, by policy researchers seeking to base policy recommendations on reliable evidence, or by intelligence experts trained to give reliable assessments of the military capacity and intentions of foreign powers. For those of a more critical cast of mind, these standards of 'objectivity' and 'impartiality' may lack independent validity but can be seen more as epistemological norms operating within particular epistemic communities, such as social science research communities or intelligence communities. They are an intrinsic part of the ethos that supports the continuing power of professional public services (Richards and Smith 10). However described, these standards place limits on what can properly and credibly asserted by members of the relevant communities. In the Iraqi WMD case, a clear contrast can be drawn between, on the one hand, those intelligence reports that carefully weighed the evidence and surrounded their assessments with due qualifications, thus meeting the requisite standards of objectivity and balance and, on the other hand, reports that sought to assess the evidence in a way most suited to government policy and were prepared to slant presentation of the evidence in that direction.

The tension between objective and biased assessment and the difficulty in drawing a line between the two was well illustrated by the UK government's

instructions to its Joint Intelligence Committee (JIC) in relation to its dossier on Iraq's WMD. As documented in the Hutton report, the JIC was to make a case against Saddam Hussein that was 'as strong as the evidence properly permitted', though nothing was to be said 'with which the intelligence community was not entirely happy' (Hutton 2004, 320).

On the one hand, this instruction appeared to require the committee not to go beyond the evidence and thus to retain objectivity. On the other hand, the request for a case '*as strong as the evidence properly permitted*' could be seen as amounting to a request to slant the evidence in a particular direction and thus to depart from a strictly objective standpoint. A truly objective account would surely have asked for a case '*as strong or as weak as the evidence properly permitted*'. Indeed, as Lord Hutton remarked (*ibid* 320), the notion of 'sexing up' evidence need not imply the actual inclusion of information known to be false or unreliable (what can be described as the 'strong' sense of sexing-up). Sexing-up can also have a weaker sense meaning the attempt to manipulate evidence for misleading effect, or 'spin'. His Lordship chose to adopt the stronger sense, the inclusion of information known to be false or unreliable, a charge from which the JIC's dossier was exonerated. Had he chosen the weaker sense, the manipulation of information for misleading effect, he could have found the government's instruction to build the strongest possible case for the existence of weapons to be an instruction to sex up the evidence. Certainly, such a version would not be the same as one produced by an objective and impartial expert observer with no policy preferences. Indeed, the subsequent Butler review (Butler 2004) criticised the JIC for allowing the dossier to exclude many of the qualifications and caveats in the earlier intelligence assessments. In terms of the suggested meaning of politicisation of information and evidence ('deliberate falsehoods or

*misrepresentations of the truth* designed to serve the partisan interests of the government'), politicisation covers both the weak and the strong sense of sexing-up.

Imputations of bias or 'spin' in the assessment and presentation of evidence can themselves involve contestable interpretative judgments. The term 'spin' covers a spectrum of possibilities between unvarnished truth and outright lying, ranging from the relatively innocent presentation of all the relevant facts in a favourable light to the partial selection of facts to suit a particular case. The line between favourable presentation and actual *misrepresentation* is a fine one (Humphreys 2005). Standards of objectivity, too, whether grounded in positivist assumptions or contextually defined, are by no means clear-cut in application. Disagreement is particularly likely once assertion moves beyond statements of bare, uncontrovertible facts to matters of judgment in the assessment of doubtful evidence. On politically controversial issues where experts conscientiously disagree, such as the reasons for climate change or the effects of minimum wages on unemployment, the issue of partisan bias is especially likely to arise and may be hard to dispel.

The claim of distortion or misrepresentation is on much stronger ground if critics can point to the deliberate purveying of known falsehoods. Indeed, it is for this reason that the most effective accusations of politicised information tend to concentrate on a solid core of incontrovertible fact – whether children were thrown overboard or who knew what about what and when. Once 'information' moves into more contentious areas where evidence must be assessed and competing assessments are possible, the line between deliberate misinformation and honest disagreement is much harder to draw.

The objectivity of public service advice can be an issue in two distinct arenas. One is internal to the executive and concerns the relationship between ministers and their officials where sound policy-making needs to be based on the best available evidence. The second is more public and concerns the relationship between the public service, the elected government and the public. Much information produced by government advisers not only serves as internal, confidential advice for ministers but also reaches the public realm as part of the public record.

All those in public life, including elected politicians, are expected to be truthful and face serious political consequences if found to have lied. Politicians, however, are regularly given more license because of their recognised role in partisan debate and political advocacy. Outright lies carry political risks, but short of that, the demands of democratic discourse often require politicians to dissemble and prevaricate in their efforts to win support for their policies. Career public servants, on the other hand, are held to higher standards of objectivity. Having no electorally partisan role and therefore with no political axes to grind, they can therefore be relied on for honest judgments.

The force of this expectation is evident from the way in which politicians themselves publicly rely on the supposed objectivity of their official advisers. Ministers wishing to vouch for the reliability of the information they are conveying regularly preface their public statements with remarks such as ‘my department advises me that’ or ‘according to advice from my departmental officials’. One reason for such attribution may be to disown responsibility in case the information later turns out to be incorrect. But another motive is often to vouch for the reliability of the information. Minister’s statements can carry much greater credibility if they are sourced to non-partisan officials than if they were simply the opinions of ministers

themselves or of their political advisers. By the same token, if information attributed to public servants has been distorted to suit the government's political interests, the public is being deliberately deceived through a form of misrepresentation in which politically partisan opinion is being passed off as objective and politically neutral.

Most of the current debate about the supposed politicisation of public service advice refers to this issue of politically distorted evidence being publicly attributed to public servants in order to provide it with independent authority and therefore greater reliability. The issue is not about what may or may not have been said by officials to politicians behind closed doors as part of the frank exchanges of confidential policy debates. It concerns the public attribution of certain statements to officials as means of gaining apparently objective and independent support for government policies. The whole debate over Iraqi WMD turned on the fact that political leaders wanted their intelligence agencies to vouch for an assessment that supported a pre-emptive attack. The point of the 'sexing-up' controversy was that the politicians and their advisers were accused of wanting to put their own distorted versions of events into the mouths of apparently independent officials and thus to pass these versions off as independently authoritative. As the Butler review pointed out

The advantage to the Government of associating the JIC's name with the dossier was the badge of objectivity that it brought with it and the credibility which this would give to the document (Butler 2004, 78)

Ministers and their advisers, of course, are free to 'sex up' official advice, and do so regularly as part of normal political debate and government spin. Public servants may also be called on to assist in the drafting of persuasive and tendentious material for their political masters. But when politicians, instead of taking responsibility for such material themselves, explicitly attribute it to their officials, they are trading on, and abusing, the integrity of the public service. It is this public

attribution of politically biased judgments to professional officials as part of the government's advocacy of controversial policies which provides a new and dangerous precedent. Government spin is one thing (and nothing new). Government spin masquerading as official and objective advice is quite another.

## V

Responsibility for distorting public service advice in the partisan interests of government can vary. Sometimes, the main initiative comes directly from politicians exerting explicit pressure on officials. The Hutton inquiry, for instance, unearthed clear evidence of such direct pressure from No 10 on the Joint Intelligence Committee, at least to the extent of seeking the best possible slant on available intelligence. For the most part, however, and for obvious reasons, clear evidence of such direct pressure is obviously hard to discover. Such instructions would rarely be committed to paper and would themselves be the subject of plausible deniability. However, political pressure on officials to distort their findings need not come in the form of direct and explicit instructions from politicians or their advisers. It is more likely to be indirect and unstated, the result of officials anticipating unfavourable reactions to unpopular advice. If public servants believe they will be penalised by their political masters if they tell the unvarnished truth, they will tend to tailor their evidence to what they believe the government wants.

Such pressure is hard to discover; knowledge of its existence depends on the reported motivations of public servants who have an obvious professional interest in denying that they are cowed by their political masters. Moreover, when public servants do choose to distort their evidence to suit the government's policy priorities, it is often not clear whether they are acting under indirect pressure from politicians or



purely voluntarily, out of their own partisan support for the government (as may have been the case with the JIC's dossier).

The possibility of such pressure over WMD was a key issue in Australia. Among the intelligence agencies themselves, most scrutiny was directed at the Office of National Assessments (ONA), a body that provides government with overall assessments of intelligence received from a variety of sources, including other government intelligence organisations, such as the Defence Intelligence Organisation (DIO). A joint parliamentary committee (Parliamentary Joint Committee on ASIO, ASIS and DSD 2004) found that, on one occasion in September 2002, in meeting a request from the Department of Foreign Affairs and Trade, ONA had mysteriously diverged from DIO in its assessment of Iraq's weapons. More generally, a senior member of ONA, Andrew Wilkie, who resigned in 2003 in opposition to the government's support for the war in Iraq, later claimed that

Most junior analysts try to offer frank and fearless advice. But the process is flawed. It involves so many layers of politically astute managers that the final result is often a report so bland as to be virtually worthless, or skewed ever so subtly towards the Government's preferred line. Better that, management would argue, than a brave report prepared in good faith that contradicts Government thinking or is likely to prove wrong over time (*Sydney Morning Herald* 31 May 2003)

Here, the charge of politicised distortion is clear but whether in response to indirect pressure from the government or a voluntary subservience is less clear. A subsequent government inquiry conducted by Philip Flood, a former Head of ONA and then Secretary of the Department of Foreign Affairs and Trade, exonerated all the intelligence agencies, including ONA, from all charges of yielding to political pressure, covert or overt. However, it did note that ONA had concluded that Iraq had WMD, even though DIO had declined to draw this conclusion. The report also

pointed to the lack of ‘a rigorous culture of challenge’ in ONA, a characteristic that could encourage voluntary politicisation.

Indirect political pressure, being harder to detect, is also harder to refute. Not surprisingly, politicians themselves, when under accusations of politicisation, single out the more overt form of direct instruction. Having claimed that they issued no direct instructions to falsify the record, they wash their hands of the charge of politicisation, as did Prime Ministers Howard and Blair, in triumphant response to the Flood and Hutton reports respectively. But indirect pressure is just as effective and, arguably, more insidious. Even more insidious, perhaps, is the distortion which arises without any pressure, from the unforced eagerness of officials to assist their government’s case. The focus on direct pressure is driven by the dynamics of political debate and the desire of opposing politicians and the media to catch political leaders out in blatant deceit. But this obsession with finding a politician with a smoking gun can obscure the wider problem of institutionalised politicisation.

Similar issues were raised by a controversy over research into higher education policy conducted within the Department of Education Science and Training. In 2001, the Department announced a wide-ranging retrospective inquiry into national policy in higher education during the previous decade. It commissioned a number of contributions from outside experts as well as from researchers within the Department. When various sections of the report were collated and eventually published two years later, it turned out that the Department had removed a section dealing with the possible effects of changes to the Higher Education Contribution Scheme (HECS). Research conducted by researchers within the Department reportedly indicated that the government’s decision to lower the income threshold at which students would be

required to start repaying their contributions had led to a reduction in part-time enrolments. Such a finding would have offered ammunition to the government's critics who had been claiming, in spite of government denials, that HECS had had an adverse effect on equity of access. The official reason given by the Department Secretary for removing the offending section was 'methodological difficulties inherent in research of this kind and the incompleteness and inclusiveness of some of the findings' (Harmer 2003). The Opposition and some journalists, however, claimed that the real reason was political pressure. The research findings would clearly have been embarrassing for a government eager to minimise any adverse effects of changes to HECS.

The charge of politically inspired suppression in this case depends on the supposed inadequacies of methodology and on other alleged scientific deficiencies of the research. On this point, the balance of argument is not favourable to the government or the Department. The researchers concerned were well respected in their field and their research methodology was publicly supported by other experts. The suspicion (it can be no more) remains that allegedly independent research was altered for political reasons.

Opposition politicians tried unsuccessfully to implicate the Minister and his personal advisers in the decision to alter the research report. The new Department Secretary, Jeff Harmer, categorically asserted that the decision was that of his predecessor as Secretary, Dr Peter Shergold, and his alone (Harmer 2003). In relation to possible undue political influence on the public service, however, the question of who actually made the decision is of secondary importance. If the decision was motivated by a desire to protect the government from evidence which was politically embarrassing but otherwise soundly based, then it matters little whether the order

came directly from the Minister and his staff or whether a compliant Secretary acted out of concern not to undermine the government. In either case, evidence was being suppressed and research findings doctored for partisan purposes.

Ironically, when the Department was eventually shamed into publishing the actual research in question (DEST 2003), the findings turned out to be much less damaging to the government's case than the critics had been arguing. The main conclusion was that, overall, HECS had had only marginal effect on equity of access to university. If the report had been published in its original form it would have caused much less political embarrassment than any attempted cover-up. Indeed, if the Department had not rashly decided in the first place to publicise its inquiry and its findings, the offending sections of the report could have been quietly suppressed without controversy.

As is evident from these cases, a major incentive for political distortion of public service reports derives from the decision to make the reports publicly available. By contrast, evidence that potentially undermines government policy but which is kept confidential to government can more readily be allowed to remain undoctored. For instance, the current Australian Treasurer, Peter Costello, has so far successfully prevented release of Treasury reports on the effects of 'bracket creep' (when pay increases move taxpayers into higher tax brackets) and of the cash grant for first-home buyers (which was said to have been subject to fraud, to have benefited a large number of very wealthy homebuyers and to have helped to inflate house prices). The Treasurer was able to block access to these documents under Freedom of Information legislation by invoking the 'public interest' exemption and issuing a 'conclusive certificate', a decision subsequently upheld in both the Administrative Appeals Tribunal and the Federal Court (a further appeal to the High Court is pending at the

time of writing). Arguments given against releasing the documents included claims that such a decision would damage the Treasury's ability to communicate in writing with the Treasurer on sensitive issues and that the documents were too technical to be understood by the public (*The Australian* 22 July 2004). There seems little doubt, however, that a major reason for suppression was that the reports contained information that could have cast doubt on the effectiveness of government policy.

In an era of greater openness of government information, officials are under greater pressure not to embarrass politicians with unpalatable facts that will provide ammunition for the government's political enemies. Whether such pressure on officials is direct and overt or indirect and institutionalised, the officials are at least partly responsible for politicising their advice. In another type of politicisation, however, public servants are free of responsibility and blame, at least initially. This is where politicians themselves misrepresent the advice they are given, wrongly attributing a distorted version of the evidence to public servants in order to give the version a spurious air of independence and authenticity. In Australia, for instance, on the issue of Iraq and its alleged WMD, no incontrovertible evidence has emerged that frontline intelligence agencies, particularly the Defence Intelligence Organisation (DIO), were themselves complicit in any direct distortion of the evidence. But there can be no doubt that Ministers were prepared to distort their findings. Ministers clearly used the intelligence selectively, omitting many of the qualifications with which intelligence reports were circumscribed (Parliamentary Joint Committee on ASIO, ASIS and DSD (2004)). In doing so, they were attributing opinions to intelligence agencies which the agencies themselves had not necessarily supported. In such a context, the mere removal of qualifying caveats and doubts, with which many of the reports were hedged, was sufficient to distort their meaning. The standard

government excuse became that intelligence was an inexact science which allowed room for disagreement and for differences of emphasis and interpretation. The excuse is disingenuous, similar to the Blair government's support for a case 'as strong as the evidence properly permitted'. If the evidence allows a range of possibilities, the genuinely impartial and objective approach is to mention the whole range, from weakest to strongest, and not to focus on the most politically convenient version.

Government versions which attribute a false impression of certainty to official reports in order to buttress the government's case clearly count as the politicisation of evidence in the sense that undue political influence has been exercised over the reporting and advising function. Even though officials are blameless for the distortion they are still placed in a difficult ethical position in relation to their political masters. Once the false attribution becomes part of the public record, public servants can themselves become complicit in maintaining a public falsehood. If they keep their counsel as loyal public servants, they are acquiescing in a deceit and lending it credence, thus in effect becoming party to the deceit. They may confidentially advise the government that their evidence has been misrepresented, but they cannot usually expect a government retraction. Their only other alternative to guilty acquiescence is to breach professional loyalty by leaking to correct the public record, an action that risks career damage and even criminal prosecution, as in the classic UK case of Clive Ponting (Norton-Taylor 1985).

## VI

In a climate of greater openness, more public service advice is expected to be made public. Even when reports are likely to remain confidential under well-established exemptions to freedom of information, such as considerations of national security, governments find themselves under pressure to buttress their policies and

decisions by reference to official research. In this respect, the controversy over intelligence about Iraq is particularly illuminating. Governments were not legally obliged to publish intelligence findings, either in whole or in part. None the less, they saw such evidence as crucial to winning the battle for public opinion and chose to take the unusual step of releasing it themselves.

This new culture of exposure places new and unwelcome pressure on departmental officials collecting evidence relevant to government policy. They can no longer expect their reports always to remain confidential. Suppressing unpalatable findings has become increasingly problematic, as indicated by the adverse publicity surrounding the Treasurer's resort to conclusive certificates to defend the confidentiality of Treasury research. In such a context, if ministers cannot rely on keeping awkward information secret, they will naturally aim to manipulate more open systems to their advantage by producing official evidence that supports their policies and by reducing the collection of uncomfortable facts in a form which will allow subsequent publication. Departmental officials, obliged to keep a public face of loyalty to ministers, will hesitate about recording evidence that could be used to challenge government policy. Indeed, the recently retiring Australian Public Service Commissioner, Andrew Podger, drew attention to just such a trend among Commonwealth public servants:

There is widespread concern in Government and the senior echelons of the service that FOI has so widened access to information that counter-measures are needed. Fewer file notes, diaries destroyed regularly, documents given security classifications at higher levels than are strictly required to minimise the chances of FOI access....departments are not only publishing less policy research but are conducting less (*Canberra Times: Public Sector Informant* 5 July 2005).

Public servants are subject to conflicting ethical pressures arising from two public service principles. On the one hand, they are obliged to provide ministers with

unbiased and objective information and evidence. On the other hand, they are bound to avoid embarrassing their ministers in public. So long as embarrassing advice can be kept securely confidential, the two imperatives are compatible. However, once confidentiality is no longer assured, tensions begin to arise between them.

Departmental research conducted under the assumption that ministers can ultimately decide whether or not to release it may be more likely to be objective and unbiased than research where officials know in advance that their findings may be published. If public servants believe that their advice will become public and possibly embarrass their ministers they will be under an incentive to pull their punches.

Admittedly, confidentiality is not a guarantee of objectivity, as for instance in the alleged bias of ONA reports which were not destined for any public dossier but were still written with an eye to not upsetting ministers. But the possibility of openness increases the urge to trim to suit the government line. Thus pressure on public servants to 'sex up' their advice is not just a result of overweening politicians or weak-kneed public servants. It also derives from the more open environment in which both sides now operate. Governments want to be able to trade on the public service's reputation for integrity by attributing evidence to their officials. Officials want to serve their political masters loyally and thus avoid publicly undermining their credibility.

The best guarantee that published government research will be unbiased and immune to political pressure is to provide those who conduct it with a degree of institutional independence. Indeed, some important providers of public information are well protected. Perhaps the leading instance is the statutory independence granted to government statistics offices, such as the Australian Bureau of Statistics which is responsible for the census and for much of the objective information underlying



political debate. Australia also has a number of other arms-length research institutes in various areas of public policy, such as health (Australian Institute of Health and Welfare), crime (Australian Institute of Criminology) and agriculture (Australian Bureau of Agricultural and Resource Economics). These institutes, while lacking the statutory independence of the Bureau of Statistics, are protected, to some extent at least, from direct ministerial control. Even so, however, in their choice of research topics, they tend to avoid issues where research might throw doubt on government's firmly held policies.

Within government departments themselves, some areas of public data collection can, in practice, be quarantined from political interference, for instance straightforward quantitative information such as head counts of welfare recipients or the size of defence forces. In addition, the Treasury issues a range of economic data, particularly through the annual budget papers where accuracy and objectivity are taken for granted. However, without the protection that comes from either institutional independence or routinised data collection and information, government departments may be under pressure to gild the lily if they suspect their advice is destined for the public arena. Over time, these trends will undermine the very reputation for objectivity on which politicians rely when they attribute statements to their officials. A cynical public when offered a statement such as 'my department assures me' or 'our intelligence sources tell us' will simply treat it yet more government spin.

## VII

Does any of this matter and if so why? The case for accuracy and objectivity in the collection and reporting of official information rests on two types of consideration, based on the two arenas in which such information is presented. The

first concerns the internal, confidential relationship between ministers and public servants and relates to the need for accurate information as a basis for sound decision-making. The arguments are managerial and practical in nature and by no means exclusive to government, applying equally to all decision-makers in complex organisations. Boards of directors and chief executives in commercial companies typically place a similar premium on sound information and robust advice, confidentially given. Free and frank advice, in this sense, is not a uniquely public service value but it is a public service value none the less. If advice to ministers, for instance in intelligence assessments, is trimmed in fear of giving political offence, then the quality of government decision-making must suffer.

The second type of consideration concerns the relationship between government and its citizens and the publication of government information. Citizens have a general right to expect that information provided by their leaders and government officials will be factually correct, not just because it will help good decision-making but because it will form a reliable basis for public discussion. Accuracy of the public record is one of the foundations of democratic dialogue and the role of public officials is crucial in guaranteeing such accuracy.

As noted earlier, the demand for honesty in government falls on both politicians and public servants but more on the latter than the former. The professional public servant's distance from the sharp end of partisan conflict and political debate enables him or her to operate with higher standards of commitment to accuracy and objectivity. If we value integrity in public life, these standards should not be allowed to be compromised. Framing the standards in terms of free and frank advice, as is the common practice, privileges the managerial relationship between officials and government. It is for this reason that more emphasis should be given to the value of

safeguarding the accuracy of the public record as an independent public service value. Such a value appears to be implicit in public expectations surrounding the cases mentioned in this paper. Here, the underlying presumption has been that information emanating from the public service is accurate and objective and should not be distorted for partisan reasons. But the importance of truth and objectivity as public values are not sufficiently emphasised in public sector codes of ethics. They are missing, for instance, from the Australian guidelines. Governments are naturally unwilling to sanction leaking and whistle-blowing aimed at correcting the public record. But without more emphatic reinforcement, the departmental official's commitment to truth and objectivity will not be able to prevail against growing pressures to lend public support to government policy.

#### VIII

Finally, what, if anything, does the politicisation of evidence and information discussed in this paper have to do with the alleged politicisation of senior public service appointments, particularly to the highest rank of Secretary, as claimed, for instance, by the Australian Labor Party. Appointment and retention procedures become politicised when the merit principle is compromised by undue political intervention (Peters and Pierre 2004, 2). Whether politicisation requires appointment on the basis of partisan sympathy or also encompasses political appointments on other grounds such as personal compatibility or policy direction is disputed. On one view, the latter should be described as 'personalised' rather than 'politicised' appointments (Weller 1989; Weller 2001; Rhodes and Weller 2001); on another view, any political appointment on grounds other than professional merit counts as politicisation (Mulgan 1998).

The extent of politicisation in senior appointments to the Australian Public Service, however defined, has been fully discussed by others (notably Patrick Weller (Weller 1989; Weller 2001) and John Halligan (Halligan 2005)). In spite of the removal of guaranteed tenure for Secretaries from the mid 1990s and the active involvement of the Prime Minister and other ministers in Secretary appointments, the APS remains comparatively unpoliticised. Appointment on blatantly partisan lines is rare (though not unknown) and most (though not all) senior public servants avoid partisan identification with the government of the day. Commitment to a career public service profession remains generally strong.

The connection between the appointment process and politicisation of behaviour, including the reporting of research and other information, is at most a contingent one. A career public servant appointed on merit is quite capable of distorting the public record to suit the government of the day, just as a politicised appointee may behave as a principled professional, resisting pressure to slant information to suit the government's line. In the Iraq WMD affair, intelligence agencies in the United States, the United Kingdom and Australia were all subjected to similar political pressure from their leaders and all reacted with a similar combination of professional disquiet and reluctant compliance, even though the leaders of the United States CIA were political appointees while their United Kingdom and Australian counterparts were career professionals.

At the same time, one would expect that reduced job security, even among professional career public servants, might increase their reluctance to stand up to ministers on matters of professional principle, including a commitment to accuracy and objectivity. However, it would be unwise to read too much into this argument or to assume that public servants with secure tenure would never indulge in politicised

advice. Ian Hancock's account of the VIP Affair of the late 1960s (Hancock 2003) provides a healthy antidote to any nostalgia for a supposedly golden age of public service integrity. In that affair, senior public servants were aware that ministers had lied about the existence of VIP fleet records and they did their best to help their ministers avoid discovery. The overriding sense of loyalty to ministers and the government of the day appears to have been no weaker then than now. The main difference with the present era was the comparative lack of transparency. Before the development of the Senate committee system and FOI, public servants went unquestioned and disreputable secrets were much more easily hidden from public view.

The greater transparency of the current era may be seen to cut both ways. On the one hand, it increases the likelihood that government deceptions will be uncovered and thus acts as a spur to government honesty. On the other hand, the fact that more public service advice may end up in the public arena places officials under greater pressure to compromise with the truth in the interests of not undermining the credibility of their political masters.

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