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Analysis of comments from individuals

Theme	Ref	Variations
<p>Public servants are citizens and taxpayers living in a democracy Public servants should be not prohibited from commenting on government policy. They are citizens and taxpayers of Australia and have a right to make comments on what the government is doing (7).</p>	<p>2, 3, 5, 7, 20, 22, 23, 31, 32, 33, 34, 35, 41, 43, 49, 59, 64, 65, 74, 76, 79, 81, 93, 103</p>	<ul style="list-style-type: none"> • Freedom of speech is only an implied right under the Australian Constitution. As a result the Australian Government has free reign to implement its own policies in regards to social media commentary. However, every person has the right to comment on the political process which we are supposed to engage through a process of democratic discourse (2). • It's unfair and oppressive to expect that because someone works in the public service that they can't be affected by political and social issues and therefore have opinions about the issues which may affect them and the people who are important in their lives (3). • Public servants are more likely to be politically engaged than the average Australian, by the very nature of the work they do. They should not be restricted from criticising policy (5). • If the APS is censored from making any criticism of the government of the day and their policies, it's going to be even harder to encourage good people to want to work with us. It's natural for citizens to have an opinion about the way the country is run. In fact it shows a healthy thirst for knowledge and means the employee is plugged in and engaged. I have very strong political beliefs but this in no way affects my ability to do my job. The APS value of integrity means that I do my best in every opportunity I have and always seek to have the best outcome for my organisation and the people we serve. If I am using social media as a platform to talk about things of a political nature, as long as I am not aligning myself to the views of my organisation, the APS, or the government, I believe I should be allowed to criticise, critique and question government policy and implementation. If the rules change I believe you will see more excellent public servants leave (20). • Having the right to vote, by default, forces you to have a political opinion. While public servants retain the right to vote, they should also be able to voice that opinion (22). • Public servants are still Australian citizens and as such are entitled to participate in the democratic process of the country where they live. Part of the democratic process includes being able to have opinions on the issues of the day and express them publicly. Public servants should have the same rights as any other Australian to comment on the government of the day and political matters (23). • It is a free country and as someone who votes I should be able to oppose views of the government of the day (31). • The right to dissent is a fundamental right of any decent democracy. A person can think Manus and Nauru are a national disgrace, but still do their job for DIBP (32). • As a citizen I have my own set of values and beliefs and shouldn't be forced to remove myself from public debate on social media just because I am a public servant. Being a member of the APS doesn't mean that I agree with everything supported by the government of the day, because the government of the day changes (33). • I believe all APS employees should be able to make comment

	<p>on governments, ministers and the APS as any other non APS citizen would be able to (34).</p> <ul style="list-style-type: none">• If we are allowed to join a political party and partake in political activism without our impartiality coming into question, surely sharing a private opinion is fine (35).• Any other Australian is allowed to use social media to express themselves but for whatever reason the Public Service Commission discourages public servants and removes their right to talk freely. Enough with the fear tactics (41).• We should have the same rights and rules of every Australian citizen. We should be able to speak our mind, even to the point of a difference of opinion with a Government Minister, providing we do not denigrate our department, our managers or colleagues (43).• As a person who is entitled to vote and as someone expected to pay taxes and abide by the laws of the day, I should be entitled to participate in exactly the same activities as any other voting, tax paying Australian. My employment should not impinge upon my right, as a voter, to criticise the government via any (legal) medium I choose (49).• It should be appropriate for public servants to comment on political issues in their capacity as private citizens. This seems to be a natural demonstration of freedom of expression. But comments should be clearly in the role as private citizens, not referencing their knowledge or experience as a public servant, or publicising their workplace (59).• A public servant is a citizen in their own time. Democratic participation should be a right for every citizen or democracy is worthless. As a citizen I should be free to make any comment that any other citizen is free to make provided I stress that it is my personal opinion and I am not using specialist knowledge that would only be available to someone in my employment (64).• People who work for the public service have just as much right to question the Government in a democratic society as the next person. If they don't, then how democratic a society is it? (65).• I am both a private citizen and a public servant. I can do both and don't need to agree with every government policy in my private life to perform my duties at work. I'm entitled to have an opinion that is contrary to the Government's and express that opinion (74).• As well as being public servants, we are citizens with political views, which we should be able to air on social media, in a way that is respectful and professional (76).• APS staff should be able to express political beliefs online, in the same way as at a dinner party or in a conversation with friends. APS staff are rightly allowed to attend political protests, join a political party and engage in other political activities in their personal capacity. Expressing political opinions on social media should not be treated differently (79).• In Australia we have a liberal democracy. Public servants are part of that democracy. As such the boundaries on political and social commentary should be set quite generously for all, public servants included (81).• There are approximately 1.85 million public servants in Australia. If the APS social media policy were to restrict their
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		<p>ability to voice their informed views on matters pertaining to public policy (which they may have a greater interest in than the rest of the population given their employment), the political discussion will be worse for it. As long as they are not voicing their political views under the guise of officialdom, I don't see what the issue is (93).</p> <ul style="list-style-type: none"> • We should be able to make comments openly and freely—first and foremost we are Australian citizens and members of our communities and as such we must be able to make comment (103).
<p>Public servants should be able to comment on issues that do not relate to their own agency Public servants, as citizens, should be free to comment on issues including policies and politics that do not relate to their own work or that of their agency/portfolio department providing they do so respectfully (67).</p>	<p>7, 9, 45, 57, 67, 78, 98, 104 105 106 108 109</p>	<ul style="list-style-type: none"> • There should be more caution about what is said about the area in which you work, but why should I be prohibited from making comment publicly about immigration policy or environment policy if I don't work in that area? Nothing I do at work has anything to do with those areas (7). • If it does not relate directly to the programs administered by their agency, preventing APS employees from engaging in public discourse as private citizens is excessive and oppressive. It is also unhealthy for Australian democracy. APS employees should be prevented explicitly from making critical public comment on social media about services or programs administered by their agencies (9). • I should be able to comment on policies and topics in the public spotlight that affect me, my family or my field without fear of reprisal from my employer, particularly where the discussion is not at all related to my employer (45). • Public servants should probably not make comments on their own department, or otherwise have guidelines on what they can discuss, but otherwise they should have greater freedom to participate in conversations on social media (57). • APS employees should be prevented from explicitly making critical public comment about services or programs administered by their agencies. We should keep things 'in-house' and not encourage 'keyboard warriors', it is important to maintain community trust with a united front (69). • APS employees should be allowed to discuss and make comments in regard to any political issue, as long as it is respectful and professional. However there should be limitations to the types of comments one could make regarding their particular agency, and senior staff should have further limitations applied (78). • APS employees should be able to voice an opinion or comment on social other than where it directly relates to their role in the APS. They should ensure to the greatest degree possible that there is no mistaking their opinion as an official departmental/APS view (98). • Public servants should have the right to express an opinion on key political issues providing they do this respectfully and that the issues they are commenting on do not relate directly to their area of employment (104). • So long as there is no link to the individual's place of work then APS staff should be able to comment on matters of importance to them. Where APS staff make a public comment anonymously or pseudonymously there should be no need to add a statement that their views are their own. To do so may reveal more of their identity than leaving such a statement out (105).

		<ul style="list-style-type: none"> • At a minimum, public servants should be free to comment on issues that do not relate to the department that they work for (106). • It is fair and reasonable if a public servant comments on matters outside of their portfolio agency/Department. Though we are public servants we are citizens too and we have a rightful interest in public policy that affects us (108). • Members of the APS and SES should never make reference to their agency or portfolio in their social media. Providing the matter is not related to work in their portfolio, they should be able to comment on other portfolios. They should never declare which portfolio they work for (109).
<p>Public servants should be free to comment outside hours A public servant is paid to work 37.5 hours a week. Stopping public servants from participating in civil society due to restrictions placed on them by virtue of their employment means that they are still beholden to the employer, over and above the 37.5 hours per week (12).</p>	12, 17, 24, 31, 77, 88, 100	<ul style="list-style-type: none"> • People should not be persecuted or railroaded for making public comment in their own personal time on any social media platform regardless of what the posting is about or responding to, that is not work related (17). • Public servants should be allowed to say anything on social media during their unpaid time (24). • When I am not at work I don't have to wear my work clothes, so why do I have to uphold values that are not my own whilst at home anonymously on the internet? (31). • Public servants should be allowed to express their personal political views when not at work, as long as they don't identify their agency or department, or disclose information that is not available to the public (77). • APS staff should be free to say what they want in a private capacity if they make it clear their views are unrelated to their jobs. Public servants are not paid for the period of time which falls outside of the standard working day so they should be free to do as they please in their own time (88). • The divide between private life and work life should be clearly defined. A contract cannot, and should not, define my opinions or my right to politely and respectfully express them, whether publicly or privately (100).
<p>There should be no restriction on commentary, apart from protected information There should be no restriction on APS employees making political commentary, even on policies covered by their own agency (5).</p>	2 4, 5, 8, 23, 30, 25, 37, 44, 61, 107	<ul style="list-style-type: none"> • Unless the commentary leads to movements in financial markets, vilifies someone personally or discloses top secret or confidential information, commentary should be permitted (2). • I agree with another poster, John, who said "We should have freedom of speech, so long as we speak respectfully about issues". Being able to implement policy we disagree with merely speaks to the professionalism that is required of the Public Service (4). • As long as I am not giving away sensitive or inside information, I should be free to say what I want (5). • It is unfair that I have to be careful about whether I voice opinions on things such as mistreatment of refugees just because I work in a department that is linked to them. I support humanity, which is neither fully left or right, and in a democracy I should have as much right as anyone else to express my humanity (8). • They should be allowed to comment on issues relating to their own department, as long as they're not revealing any state secrets or insider knowledge in doing so (23). • We should have freedom of speech, so long as we speak respectfully about issues (25). • No matter how distasteful, racist, sexist, or whatever an

		<p>opinion is, a person should have the right to express that opinion, provided it is not obviously linked to an organisation. I understand the governments need to distance themselves from their employees opinions, but no matter how distasteful, it is their opinion, not the governments (30).</p> <ul style="list-style-type: none"> • My love/loathing for whichever political party/union etc. doesn't change what I do at work. As long as my posts are not of racist/hateful/illegal nature I do not feel that should be an issue and I should be able to have a political opinion (37). • The freedom of speech of public servants should not be restricted. That said, public servants should not reveal privileged information in public forums without permission, nor should they speak on behalf of their employer without permission (44). • Public servants should be able to participate freely in discussion on social media, including both positive and negative comments about government policy (no inside info, private info, protected info) (61). • Public servants should have a right to express their opinions on matters as long as they are professional towards their organisation (107).
<p>It's only an issue if APS employees are identifiable as such Public comments where an individual cannot be directly identified as an employee of a specific agency should be specifically permitted - to make this up to individual interpretation is confusing (68).</p>	3, 68, 69, 83, 102	<ul style="list-style-type: none"> • A disclaimer on comments only draws attention to the fact that a person works in the public service and is more likely to be seen by a member of the public as being made on behalf of the employee's department. A more effective result could be achieved by instructing APS employees to remove any identification as an APS employee on their personal social media accounts and to not permit comments which identify their opinion as being related to their employment. Without any identification to the person's employment, it's difficult to see how someone can perceive an employee as making comment on behalf of their employer (3). • The APS should prevent employees from listing their employer/agency on social media, cutting any direct ties between the private lives of employees and work obligations (69). • As long as staff do not have their employer listed on their social media bio's and don't post anything that would breach the Anti-Discrimination Act they should be allowed to have opinions of current events (83). • APS employees should only be prevented from making public comment if they are easily identifiable as APS employees. For example, if they have identified themselves as such (in close association with the comment in question), or if they are high profile employees. In such situations, a clear disclaimer that the opinions are their own and not that of their employer should be sufficient, assuming the comments are otherwise reasonable (102).
<p>Employees should not release information that is not publicly available A key criteria as to whether a comment is appropriate is whether it is made using knowledge from within the agency you work for, information that is not a publicly</p>	10, 34, 49	<ul style="list-style-type: none"> • Under no circumstances should anyone be able to provide information on social media that is not available to the public (34). • There is a line to be drawn when it comes to making public information that I can only have as an employee of the Commonwealth (49).

<p>available. This includes expressing opinions which only an employee would know. The public might assign more credibility to such a statement than they would if it was made by someone did not have inside knowledge (10).</p>		
<p>Policy needs to be updated to reflect contemporary reality Any new policy needs to more closely align with the reality of social media. E.g. if a Facebook post would contravene the social media policy if posted by a public servant what happens if another public servant likes that post? Or reacts to it with one of the new icons available? Similarly, with twitter is a retweet considered to be an endorsement? (14)</p>	<p>14, 39, 96</p>	<ul style="list-style-type: none"> • Social media is moving quickly and this policy needs to adapt with it and allow the ability of staff to constructively contribute (39). • It is unreasonable to consider failure to remove or contradict comments made on a blog or social media post as endorsement of those comments. Public servants are not responsible for the opinions or comments of others and may not be aware of such comments having been added to said blog/post (96).
<p>Public servants should never post anything critical It is an honour and privilege to serve the country and the people through being a public servant. To be an effective trusted public servant your relationships with others in the agency, the APS and the Government are crucial. When you as a public servant post anything publicly that could in any way be identified as being critical you create doubt in the minds of those who judge. Judgement can come from anywhere. Doubt in your ability to serve impartially erodes trust. You may publish something about another area of Government which you later end up working in - so there's no false solace in that suggestion. Social media commentary never goes away - it is forever. To protect public servants from any erosion of trust now or in the future, I believe they should not be posting anything critical. Whether or not you say where you work on social media - people can find out easily - especially as you become more senior (not necessarily even as senior as SES) (80).</p>	<p>8, 60, 80</p>	<ul style="list-style-type: none"> • There should be repercussions in clear cases where a person's employer is denigrated, but that applies to all employees, regardless of sector (8). • No matter who your employer is, whilst you are in their employ, you should respect that bond and not do or say anything that would damage that company's reputation. This is what is happening in private industries and the community now. For example: Footballers being banned from media and managers not able to say anything about the referees so why should APS employees be different. I agree it is an honour and privilege to serve by being a public servant. We need to be just as respectful, whether you hold a different opinion or view to the government of the day. The public don't care if what you are saying is your personal view or one in an official capacity (no matter your level). We need to ensure we do not create doubt in the public's mind of our ability to serve impartially. To protect public servants from any erosion of trust now or in the future, I believe they should not be posting anything critical (60).
<p>Employees should be able to say what they want provided they include a disclaimer So long as you make it clear you are providing a personal view and are</p>	<p>34, 110</p>	<ul style="list-style-type: none"> • Public servants posting in a private capacity should be able to express an opinion as long as it includes a clear disclaimer stating that the opinion they have expressed is purely a statement of their own opinion and not that of their employer and is otherwise lawful (110).

<p>not making comment or disclosing information that is not publicly available this should be allowed. If comment is made you just need to make it clear that this is your personal opinion, and remain respectful (34).</p>		
<p>Politicians, media commentators, lobbyists and others are free to speak – why not public servants? If its OK for politicians, lobbyists, media and joe public to express opinions on policy, then it should be OK for public servants to do the same (94).</p>	46, 94	<ul style="list-style-type: none"> It is incredible that in the current environment the government is allowed to say what they want about public servants whether it be about EA's, sacking of staff etc. however as public servants we are not allowed to respond. We should be allowed to express our opinion without the threat of losing our job. One sitting member is allowed to say something about what the government is doing or another parliamentary member with out recourse, but if I was to say something in social media about a sitting member I can be disciplined. Where is the fairness in this? (46).
<p>Freedom of speech in other constitutions and covenants The discussion paper does not include the United States' permissive rules about public comment by public servants. In the US, the government cannot restrain speech by a public servant on a matter of public concern unless the comments create severe disruption to government operations (6).</p>	6, 17	<ul style="list-style-type: none"> The International Covenant on Civil & Political Rights Article 19 makes it pretty clear about the rights of individuals but also some limitations around those same rights. Article 19 of the Universal Declaration of Human Rights, adopted in 1948, states that: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (17).
<p>The guide is OK but needs to be clearer The APSC's social media guidelines are on the right track although I would like to see the point that public servants do have the right to comment on political issues outside of their direct work area (and maybe the direct work area of their agency) made more explicit.</p>	19, 104	<ul style="list-style-type: none"> The social media stance is perfect as it stands. We as employees represent the APS. We should take the upmost caution when online in any action we are doing. We should fully uphold the social media guides and be proud to do so. I do not think they need to be amended, I think they are great as they are (19).
<p>Personal opinions should be allowed without a disclaimer Providing a personal opinion should be allowed without the need for a disclaimer as the assumption should be that the opinion is personal. Criticism of any department which involves the person's duties should come with a disclaimer that it is their personal opinion and doesn't impact their work (40).</p>	40	
<p>Agency head responsibilities are different to other APS employees The current policy conflates the role of Secretary of a Department with the role of every other public servant. A Secretary must have a relationship of close personal</p>	13	

<p>confidence with their Minister and other members of the Government, and the Minister's confidence in the Secretary is vital to the efficient discharge of both officials' functions. These considerations do not exist in relation to the rest of the public service (13).</p>		
<p>It is only a problem if it affects an employee's ability to do the job Criticism or adverse comment in relation to one's own agency is only a problem where it relates directly to the speaker's ability to do their job or disrupts the workplace. For example, airing a private employment grievance in public (or even in private) may create a tense, hostile environment in the workplace (13).</p>	13	
<p>It's a matter of trust In 10 years of working in Government I have only ever seen fantastic, impartial and evidence based decision making, and this is despite the fact that as humans, public servants naturally hold opinions. To imply that they cannot be trusted to comment responsibly on social media is to imply they cannot be trusted anywhere. Why does the medium change things? If we're questioning the integrity and trustworthiness of the Public Service; why should it be limited to social media? Either we are trustworthy everywhere, or we are not (72).</p>	72	
<p>What about consultants? Agency reputation is as much at risk by public comment by consultants (individuals and corporations) and contractors as it is by staff. Any rules should be applied to consultants, contractors, APS employees equally (90).</p>	80	
<p>The policy is overkill If the 'problem' the APSC is trying to address is a very small handful of public servants who have done the wrong thing, the 'cost' of semi-gagging all public servants does not stack up (1).</p>	1	

<p>Limits on public commentary are longstanding The medium doesn't change the message. Public servants have for years known what is appropriate to say in what setting, they have understood what they can and cannot write in a letter to the editor, and what they can reasonably say to acquaintances and colleagues. There may be some confusion among public servants about the public nature of social media; rather than confusion about what is appropriate comment. There is a simple test—if you wouldn't write it in a Letter to the Editor with your full name and suburb, don't post it on social media. Or if you wouldn't say it in front of your boss in a public forum, don't say it (21).</p>	<p>21</p>	
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<p>Practical tips Practical tips to help public servants reduce the risk that their comments on social media could be mistaken for being on behalf of their employer would be helpful. e.g. 1. Don't put your employer's name on your social media account. 2. Avoid public comment about the work of your agency (where it is not on the public record). 3. Avoid making comments informed by your inside knowledge of an issue (28).</p>	<p>28, 33, 85</p>	<ul style="list-style-type: none"> • My suggestion would be that APS employees should not list their Department or Agency as their employer on social media sites. They should not divulge any information that is not already available on public record and should not publicly denigrate their employer (33). • Have a set of rules of 'fair play'. For example: 1) Don't identify yourself as a public servant on social media. 2) Don't comment on your own agency or the work that you undertake as a public servant. 3) Respect the gravity by which your words can potentially impact your colleagues and community at large (85).
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<p>1. No. Being able to make political comment is a democratic right Australia. Being able to separate the individual from their identity as a public servant is not possible. As such, different rules for different groups may be a way to allow for individuals to be able to make comment on issues, where it does not bring their role as a public servant in respect to comments they make into question.</p> <p>2. Yes. Private comments being made in a public capacity regarding an area or policy you may have privileged information about will likely reflect poorly on the APS.</p> <p>3. No. The rules should be the same for everyone.</p> <p>4. No. This approach would diminish</p>	
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<p>the reputation of the APS. 5. Yes they are clear. They do not appear to require revising.</p>		
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Review of social media guidance 2016

Integrity Team

January 2017

1. Introduction

In November 2016 the Commission conducted a consultation forum as part of the review of the APSC's guidance on use of social media and making public comment.

The aim of the review is to ensure that the guidance is as clear and helpful as it can be.

The Commissioner wrote to agency heads on date inviting them to access a discussion paper on our dedicated webpage and send a submission with their views.

Australian Public Service (APS) employees were also invited to engage in the consultation by sending a submission or posting comments on an online forum.

The CPSU and a select group of legal firms were also invited to comment.

Submissions were received from 13 agencies:

1. Australian Bureau of Statistics
2. Australian Commission for Law Enforcement Integrity
3. Australian Electoral Commission
4. Australian Taxation Office
5. Department of Communications and the Arts
6. Department of Employment
7. Department of Finance
8. Department of Foreign Affairs and Trade
9. Department of Health
10. Department of Human Services
11. Department of Infrastructure
12. Department of Social Services
13. Department of Veterans Affairs

Thirty individuals sent submissions and another 90 individuals posted comments posted on the online forum.

This paper provides an overview of comments made by the agencies and the CPSU. A separate paper will be prepared discussing submissions and comments by individuals.

1.1 Current APS guidance on using social media and making public comment

The current Australian Public Service Commission guidance, published in APS Values and Code of Conduct in Practice, recognises that APS employees can make public comment in a number of different capacities:

- a. in a professional capacity on behalf of their employing agency
- b. in a professional or expert capacity as a private citizen
- c. as a private citizen.

The guidance adopts the principle that APS employees may generally make public comment in an unofficial capacity, so long as the comment is lawful and the employee makes it clear they are expressing their own views.

However, as exceptions to this principle it states that it is not appropriate for APS employees to make comment that is, or could reasonably be perceived to be:

- a. being made on behalf of their agency or the Government, rather than an expression of a personal view
- b. compromising the employee's capacity to fulfil their duties in an unbiased manner—this applies particularly where comment is made about policies and programs of the employee's agency
- c. so harsh or extreme in its criticism of the Government, a Member of Parliament from another political party, or their respective policies, that it raises questions about the employee's capacity to work professionally, efficiently or impartially
- d. so strong in its criticism of an agency's administration that it could seriously disrupt the workplace
- e. a gratuitous personal attack that might reasonably be perceived to be connected with their employment
- f. compromising public confidence in the agency or the APS.

The guidance also recognises that employees of the Senior Executive Service have a particular responsibility. It notes that because of:

- the influence that they carry with stakeholders, and because they are likely to be required to advise on, or lead, the implementation of government policies and programs, SES employees should be particularly careful when making public comment.

The guidance also notes, importantly, that making public comment anonymously, or using a pseudonym, does not protect an employee from any subsequent action. There are a number of cases where APS employees who had used pseudonyms were identified and found to have breached the Code of Conduct in the comments they had posted on social media platforms.

The relevant extract from APS Values and Code of Conduct in Practice is at Appendix A.

1.2 Discussion paper

The paper sets out the legislation that underpins APS policy in this area, and how sections of the Code of Conduct apply to out of hours activity where there is some connection to the workplace. It outlines how the ubiquity of social media and the ease of its use reinforce the need for APS employees to have clear, simple guidelines letting them know what they can say. It set out the background to the legislation governing the conduct of APS employees. It explored approaches in other jurisdictions – private, public, and international. It also posed a series of questions aimed at identifying areas where we can improve the guidance already available for APS employees. Those questions were:

1. Should APS employees be prevented from making public comment on all political issues? Should there be different rules for different groups of APS employees?
2. Should APS employees be prevented explicitly from making critical public comment about services or programs administered by their agencies?
3. Should senior public servants have specific limitations about making public comments?
4. Should public servants posting in a private capacity be able to say anything as long as it includes a clear disclaimer stating that the opinion they have expressed is purely a statement of their own opinion and not that of their employer and is otherwise lawful?

5. Are the requirements of the APSC guidelines expressed clearly? Can they be made simpler and easier to understand?

The discussion paper is at Appendix B.

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