



<b>Report Title:</b>	<b>Ministerial directions - agency names</b>		
<b>Report No:</b>	<b>2024-0143</b>		
<b>Date:</b>	<b>10 May 2024</b>		
<b>To:</b>	<b>Hon Nicola Willis, Minister for the Public Service</b>		
<b>Action Sought:</b>	<b>For Noting</b>	<b>Due Date</b>	<b>10 May 2024</b>
<b>Contact Person:</b>	<b>Hugo Vitalis, Deputy Commissioner – Integrity, Ethics and Standards</b>		
<b>Contact No:</b>	9(2)(a) privacy		
<b>Encl:</b>	No	<b>Priority:</b>	Low / Medium / High
<b>Security Level:</b>	<b>UNCLASSIFIED</b>		

## **Purpose of Report**

1. A question has arisen in the media as to whether the public service is implementing Government policy for public agencies to primarily use the English names for their agencies. This highlights the need for chief executives and Ministers to have a common understanding of any Ministerial direction given.
2. In 2014, Cabinet agreed that “Te Puni Kokiri, in consultation with Te Taura Whiri i to Reo Māori, work with the Property Management Centre of Expertise to develop guidelines for bilingual (Māori-English) signage across public sector agencies.” The guidance was published in 2016. It encourages agencies to consider principles of bilingual signage when redesigning their logo or branding and recommends that the Māori language version of bilingual text appear first.
3. Agencies applied this guidance and, as advised in our 6 December report on the use of te reo Māori in agency names (2023-0302 refers), most agencies use both Māori and English names in their agency branding and logos (approx. 50% put English first).
4. The November 2023 coalition agreement between the New Zealand National Party and New Zealand First includes a commitment to “Ensure all public service departments have their primary name in English, except for those specifically related to Māori.”
5. There has, however, been no Cabinet decision establishing the current Government’s policy on this matter. Instead, we understand agency naming is to be dealt with on a case-by-case basis. This position is confirmed in your letter to Hon Duncan Webb dated 2 May 2024.

## **Minister’s Directions**

6. While Ministers are not generally involved in the day-to-day operations of agencies (paragraph 3.9, Cabinet Manual), public service agencies are required to implement lawful directions from their respective Ministers. Such directions can extend to operational matters such as the name an agency uses in communicating with the public. Public service

requirements, including political neutrality, duty to serve the government of the day and to act in accordance with the law, mean that chief executives must follow such lawful directions. If a Cabinet policy decision conflicts with an individual Ministerial direction, the Cabinet policy decision takes precedence. A coalition commitment on its own is not enough to constitute a direction to public service agencies. Coalition agreements are political agreements between parties, and must be given effect to through decisions of Cabinet or individual Ministers.

7. If there is any uncertainty as to the lawfulness of a ministerial direction, a chief executive must obtain advice before implementing the direction. In the case of directions relating to the use of agency names, relevant considerations may, depending on the nature of the direction, include consistency with the Māori Language Act 2016 and the Treaty of Waitangi. For example, depending on the circumstances there may be a consultation requirement.
8. The position is different for agencies outside the public service (including Crown entities). The ability for Ministers to direct non-public service agencies depends on the specific governing statute, and directions must be issued in accordance with the requirements of those statutes.

## **Our Advice**

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9. The public may erroneously believe from the media reporting that there has been a Cabinet decision changing the guidance issued under the previous Government. There is therefore a risk that chief executives who have not changed the names of their agencies may be perceived as not following lawful instructions.
10. In the absence of a Cabinet decision, individual Ministers can direct their agencies on the name they use in branding and day-to-day communications (consistent with your letter to Hon Duncan Webb). It is important that a direction be given explicitly from the responsible Minister in each case, and preferably recorded in writing so as to avoid any confusion. As noted above, the commitment in the coalition agreement is not sufficient to implement a change in approach by agencies in the absence of a direction from Cabinet or their Minister.
11. Written direction or confirmation will ensure chief executives can work through any legal and financial implications and ensure that they can, if necessary, provide their Minister with advice on:
  - a. the lawfulness of the direction and/or any legal requirements for the implementation process, and
  - b. other implications of the direction including costs or other operational impacts.
12. The Waitangi Tribunal is currently considering this issue, and we understand Crown Law is developing advice for the Attorney General. This advice is likely to be a relevant consideration for Ministers wishing to issue directions in this area.

## **Recommended Action**

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We recommend that you:

- a **note** that individual Ministers can direct their agencies on the name they use in branding and day-to-day communications

**Noted / Not noted**

***IN CONFIDENCE***

- b **note** that, given advice from Crown Law is pending, you may wish to advise Ministers considering issuing directions to chief executives to consult with the Attorney-General

**Noted / not noted**

- c **note** that the Commission intends to discuss this approach with public service agency chief executives and recommend that, if they are unclear, they confirm such directions with their Ministers in writing.

**Noted / not noted**

Hon Nicola Willis  
**Minister for the Public Service**

***IN CONFIDENCE***