

Hon Judith Collins KC

Minister for the Public Service

Amendments to Public Service Act 2020

Date of issue: 6 May 2025

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Title: Amendments to Public Service Act 2020

Author: Te Kawa Mataaho Public Service Commission

The Hon Judith Collins KC, Minister for the Public Service is releasing the Cabinet paper and Cabinet Minute

Explanatory Note

Included in this release are the following documents:

- Cabinet Paper - Amendments to the Public Service Act 2020 Paper 1 Clarifying the Role and Responsibilities of the Public Service
- SOU Minute SOU-25-MIN-0028
- Cabinet Minute CAB-25-MIN-0085

In Confidence

Office of the Minister for the Public Service

Cabinet Expenditure and Regulatory Review Committee

Amendments to the Public Service Act 2020: Paper 1 – Clarifying the role and responsibilities of the Public Service

Proposal

1. These papers propose amendments to the Public Service Act 2020 that will:
 - 1.1 Drive improvements in Public Service performance, efficiently and effectively serving the government to deliver value for money for all New Zealanders; and
 - 1.2 Reinforce the core principles of political neutrality, appointment on merit to all positions and professional competence.

Relation to government priorities

2. The Public Service is vital for driving our agenda as a Government. An efficient, professional, politically neutral and merit-based Public Service assists us to frame and implement our programme. This includes achieving discipline in government spending and enabling us to grow New Zealand's economy to deliver more jobs, higher incomes and money to invest in core services like schools, hospitals and roads.
3. The Coalition Agreement between the New Zealand National Party and ACT New Zealand contains a requirement to: "Amend the Public Service Act 2020 to clarify the role of the Public Service, drive performance, and ensure accountability to deliver on the agenda of the government of the day."

Executive Summary

4. The Public Service is a key resource for the Government to develop and implement its policies and deliver for New Zealanders. The statutory framework for the operation of the Public Service (the Public Service Act 2020) is an important enabler for how well it serves the government of the day.
5. The Public Service Act 2020 has added new responsibilities to the core role of chief executives, which has de-emphasised the responsibility to implement the Government's policies and make efficient use of taxpayer money. There is also a need to remove prescriptive provisions (some of which duplicate other legislation) that are distracting agencies from their core mission.

6. In addition, there needs to be a greater focus and stronger levers for driving performance of chief executives, agencies, and achieving efficiency and effectiveness gains from working across agency boundaries where appropriate.
7. To achieve these aims in the amended statute, I am proposing six sets of amendments to:

Clarify the role of the Public Service	Analysis in this paper: Clarifying the role and responsibilities of the Public Service
Streamline chief executive responsibilities	
Reinforce the principle of merit-based appointments	Analysis in Paper 2: Driving improvements in performance
Improve chief executive and agency performance management	
Utilise and improve tools to reduce silos	Analysis in Paper 3: Breaking down silos
Better risk management	

Background

7. The Public Service is a key resource for any Government. Its efficiency, professionalism, and performance are important for Ministers and for New Zealanders whose taxes pay for it. The statutory framework for the operation of the Public Service, the Public Service Act 2020 (the Act), is an important influence on how well it serves Government and society.
8. We have had longstanding concerns about the way the Public Service functions and performs. Before coming into Government, we were concerned about the growth in size and cost and the consequent drag on New Zealand's economic performance.
9. In the six years from 2017 to 2023, the number of people employed in the core Public Service grew 34% to 63,117 full-time equivalent employees. Despite this increase, the actual outcomes for New Zealanders went backwards across key areas like health, education and crime.
10. We have taken action to address the issues. My predecessor in the portfolio, the Hon Nicola Willis, took action to control the size and cost of the Public Service. We have also used the Government's targets to focus agencies on our priorities. The Public Service Commissioner (the Commissioner) has reinforced this by seeking to reorient and strengthen the process for setting expectations and reviewing the performance of Public Service chief executives.
11. There is more to do, and the Commissioner is working on actions that will increase the capacity and capability of the system to respond flexibly to changing demands and priorities.
12. This suite of papers concerns one element of improvement; ensuring that the governing statute, the Public Service Act 2020, is fit for purpose. This first paper

focuses on the role and purpose of the Public Service, and responsibilities of chief executives.

13. The Act has de-emphasised and distracted focus from the fundamentals of the Public Service by diffusing chief executive responsibilities and complicating the Public Service's role. Consequently, I have two aims in putting forward these amendments to the Act to clarify the role and responsibilities of public servants:
 - 13.1. Firstly, I am aiming at a statute that provides clarity for chief executives and public servants. Laws influence attitudes and culture. For this reason, I want Public Service chief executives to be clear as to their responsibilities and accountabilities in their roles. There is too much prescription (in some cases duplication of existing law), and I therefore propose amendments to address that.
 - 13.2. Secondly, I am aiming for a statute that emphasises the fundamental characteristics and principles of the Public Service. Essentially this means a public service that is efficient and economical with taxpayers' funds, which works in a way that is professional, politically neutral and provides free and frank advice. All this is backed up by the merit principle: appointments to all positions occur strictly on the basis of merit.
14. However, the problems with the Act are not limited to the role, purpose, and responsibilities of the Public Service, and two further papers describe the problems and proposed changes to help drive performance improvements (*Amendments to the Public Service Act 2020: Paper 2, Driving Improvements in Performance*), and to improve coordination between agencies (*Amendments to the Public Service Act 2020: Paper 3, Breaking down Silos*).

Clarifying the role of the Public Service

15. The Public Service Act 2020 increased emphasis on the role of the Public Service in supporting current and future governments. I am concerned that there has been decreased emphasis on political neutrality, professionalism, financial stewardship, efficiency, and delivering for the government of the day, and would like to re-emphasise these in the legislation. These reforms will re-emphasise the important principle that officials serve the government of the day, and ensure a focus on creating enduring value for taxpayers.
16. Descriptions of the role of the Public Service in the Act are more complicated and more diffuse than in the State Sector Act 1988. There are many different sections (ss 11, 12, 13, 14, 15, 16, and 52) that describe different aspects of this role.
17. The 'Purpose of the Public Service' (s 11) describes what the Public Service is intended to achieve, and is largely drawn from clauses spread through the former State Sector Act 1988. Similarly, the 'public service principles' (s 12) are largely drawn from provisions spread through the State Sector Act 1988.
18. In particular, the responsibilities of chief executives are of fundamental importance for defining how the Government and Public Service interact. The

State Sector Act 1988 (s 32) originally described four ‘principal responsibilities.’ This list was extended to eight in the State Sector Amendment Act 2013. In the Public Service Act 2020, this list was largely retained, but renamed ‘general responsibilities’, and moved to later in the Act (s 52).

19. While the purpose, principles, and responsibilities are largely consistent with the State Sector Act 1988, they send the wrong message by de-emphasising implementing Government policies and using taxpayer money efficiently. Similarly, renaming ‘principal responsibilities’ to ‘general responsibilities’ was intended to modernise legislative language, but has downgraded their perceived importance.
20. I propose that the purpose statement in the Act should be clarified to focus on:
 - supporting the Government to develop and implement its policies;
 - delivering high-quality, efficient and effective public services;
 - meeting the needs of New Zealanders; and
 - acting in accordance with law.
21. The responsibilities should follow directly from the purpose statement, and the name ‘principal responsibilities’ restored. I propose a new responsibility for financial stewardship be included. These should be reordered and clarified to focus effort on:
 - giving advice to Ministers;
 - implementing Ministers’ lawful instructions;
 - the efficient and economical delivery of the goods, services and regulatory functions provided by the agency toward the intended outcomes;
 - the operation of their agency;
 - financial stewardship of the agency, including building and maintaining a financially literate workforce;
 - improving interoperability, coordination and collaboration across Public Service agencies;
 - the agency’s responsiveness on matters relating to the collective interests of government; and
 - supporting Ministers to act as good stewards of the public interest, including by maintaining public institutions, assets, liabilities, and the currency of any legislation administered by their agency.
22. The ‘principles’ of the Public Service (including merit-based appointments and political neutrality) should be retained and follow the responsibilities above, and obligations relating to these principles should be streamlined. These principles apply to Public Service agencies and Crown agents. Elements of the principles, including expectations of political neutrality, also apply to other Crown entities through the code of conduct issued by the Public Service Commissioner.

23. The 'spirit of service' section (s 13) should be removed and reference to a spirit of service to the community should be restored to the 'purpose of the Public Service', in line with previous legislation.

Streamlining chief executive responsibilities

24. The design of the New Zealand public management system places significant emphasis on the relationship between the chief executive and the relevant Minister. The chief executive role requires clarity of responsibilities to allow them to support Ministers effectively to deliver enduring value from New Zealanders' investments in public services and institutions.
25. Chief executives have been asked to be bold and take risks. This Government is open to new ideas if they lead to tangible outcomes for people. Chief executives have the authority to make the sort of day-to-day decisions needed to deliver, but it's also important that they can work with their Ministers on trialling new approaches. A little freedom to innovate and take managed risks may offer more freedom to succeed.
26. The Act imposed new responsibilities on chief executives, including several that either duplicate existing law or that would more appropriately be set and modified through Government policy. I consider that chief executive responsibilities should be streamlined by:
 - 26.1. resetting the way we want agencies to work;
 - 26.2. removing responsibilities for promoting diversity and inclusion and recognising the importance of pay equity and freedom from gender bias; and
 - 26.3. streamlining the requirement to produce Long-Term Insights Briefings.

Accountability structures

27. Through consultation, I heard that the Public Service had become confused with a multitude of accountability structures which diluted chief executive accountability, including Interdepartmental Executive Boards, departmental agencies and functional chief executives
28. However, these entities provide Government with flexibility to organise the Public Service in different ways. They can be useful for problems that cannot be solved by an individual agency, or which are important, but should be time limited in nature and do not justify the establishment of an entire new department.
29. On that basis, I propose to amend the establishing provisions to require that the Orders in Council set an end date for Interdepartmental Executive Boards and functional chief executives. I also recommend that we direct chief executives to review all Interdepartmental Executive Boards, departmental agencies and functional chief executives and advise whether they remain necessary. Cabinet may require similar reviews of any new entities established in future.

30. Through consultation, it was also raised with me that the reporting and financial arrangements for all these entities can be cumbersome and confusing. I have asked officials to work with Treasury on possible changes to the Public Finance Act 1989 to address these concerns.

Promoting diversity and inclusion

31. The Act requires chief executives to be guided by the principle that the group comprising all public servants should reflect the makeup of society, and foster a workplace that is inclusive of all groups through employment policies and practice (s 75). A similar provision is included as one of the Commissioner's general functions (s 44(c)). The focus should be on an unbiased merit-based appointment process.
32. General levers already exist in the Act for the Government to set workforce policy expectations to which the Public Service must give effect, and these are a more appropriate vehicle for addressing these matters than primary legislation. I therefore propose that the functions and responsibilities relating to diversity and inclusion be removed from the Act (through removing s 75 and amending s 44(c)).
33. While successive governments may take different stances on these matters in their workforce policies, it should not be the default that this be a focus of the Public Service. Consequently, I also propose that similar references to workforce diversity and inclusiveness be removed from the list of matters that may (without limitation) be addressed by the content of Government workforce policy statements (s 97) and by the content of the Commissioner's three-yearly briefings on the state of the public service (sch 3, s 16(4)(a)(v)).
34. If necessary, in the future, these matters may still be addressed by Government workforce policy statements that reflect the policy of each Government.
35. Through consultation, concerns were raised with me about the signal that removal of these sections would send to the Public Service and the wider public. The Government and Public Service Commissioner will still work for fair and just inclusion of people based on merit. It is important to recognise that chief executives will remain responsible for employment relationships which treat all people with respect and dignity, and for creating an environment in which people are looked at in the round and given opportunities based on merit.

Employment policy requirements

36. The Act added additional responsibilities on chief executives to have a policy recognising the importance of achieving pay equity between male and female employees, and recognition of the importance of decisions about remuneration being free from bias including gender bias (s 73(3)(i)-(j)). A similar provision, requiring the Commissioner to work with chief executives to achieve equitable employment in the Public Service, is included in the Commissioner's general functions (as an element of s 44(c)).

37. Similar to the paragraphs above, I propose that where necessary these matters are more appropriately addressed through Government workforce policy statements, and should be removed from the Act.

Long-Term Insights Briefings

38. The Act requires chief executives to prepare a report, every three years, on the long-term risks and opportunities that impact upon the future operating environment of their agency.
39. The first Long-Term Insights Briefings were produced in 2022, and this revealed several limitations with the process. Agencies reported that the process was over-specified in the Act, that the scope of the briefings was unhelpful and resulted in overlap and duplication, and that long-term thinking should be considered a core function of agencies rather than a discrete three-yearly activity.
40. I therefore propose that we remove these provisions. Instead, there should be renewed expectation on agencies that long-term thinking should be a core part of policy advice, as currently included in the public service principles (s 12) and the general responsibilities of chief executives (s 52).
41. I propose that the Department of the Prime Minister and Cabinet (DPMC), as head of the policy profession, continue to issue guidance on this aspect of quality policy advice, and that they also coordinate a single Long-Term Insights Briefing once each term of government. This will support agency capability and ensure Long-Term Insights Briefings are tightly focused and well-coordinated.

Financial, Cost-of-living and Legislative Implications

42. Financial and legislative implications of this suite of papers is addressed in paper three, *Amendments to the Public Service Act 2020: Paper 3 - Breaking down silos*.

Impact Analysis – Regulatory Impact Statement, Population and Human Rights Implications

43. Impact analysis of this suite of papers is addressed in paper three, *Amendments to the Public Service Act 2020: Paper 3 - Breaking down silos*.

Consultation and communications

44. Consultation and the approach to communications for this suite of papers are addressed in paper three, *Amendments to the Public Service Act 2020: Paper 3 - Breaking down silos*.

Proactive Release

45. This paper will be proactively released following the commencement of the Act.

Recommendations

I recommend that the Committee:

1. **agree** that it is necessary to amend the Public Service Act 2020 (the Act)
2. **note** that this reform aims to build upon the measures Government has already taken to address issues of performance and efficiency in progressing the Government's programme
3. **note** that the proposed Bill has a priority 3 categorisation on the legislation programme for 2025 (to be passed by the end of 2025)
4. **note** that this paper forms part of a package of reforms also described in *Paper 2: Driving Improvements in Performance* and *Paper 3: Breaking Down Silos*
5. **note** that proposed amendments to the Act in this paper aim to:
 - 5.1 clarify the role of the Public Service and streamline the responsibilities of Public Service chief executives under the Act
 - 5.2 emphasise the fundamental principles of the Public Service

Clarifying the role of the Public Service

6. **note** that the Act describes a large number of attributes spread over many sections, that are important in explaining to public servants their role, with the primary elements contained in the purpose, principles, and chief executive responsibilities
7. **agree** the purpose of the Public Service should be clarified to focus on:
 - 7.1 supporting the Government to develop and implement its policies
 - 7.2 delivering high-quality and efficient public services
 - 7.3 meeting the needs of New Zealanders, and
 - 7.4 acting in accordance with law
8. **note** that the 'general responsibilities' of Public Service chief executives are of fundamental importance for defining how the Government and Public Service interact, but that these have been de-emphasised in Act
9. **agree** the 'general responsibilities' of Public Service chief executives should be brought forward in the legislation, renamed as 'principal responsibilities', and clarified to focus their effort on:
 - 9.1 giving advice to Ministers
 - 9.2 implementing Ministers' lawful instructions

- 9.3 the efficient and economical delivery of the goods, services and regulatory functions provided by the agency toward the intended outcomes
 - 9.4 the operation of their agency
 - 9.5 financial stewardship of the agency, including building and maintaining a financially literate workforce
 - 9.6 improving interoperability, coordination and collaboration across public service agencies
 - 9.7 the agency's responsiveness on matters relating to the collective interests of government, and
 - 9.8 supporting Ministers to act as a good steward of the public interest, including by maintaining public institutions, assets, liabilities, and the currency of any legislation administered by their agency
- 10. **agree** that the 'principles' of the Public Service (including merit-based appointments and political neutrality) should be retained and follow the responsibilities above, and obligations relating to these principles should be streamlined
 - 11. **note** that the principle of political neutrality also applies to all Crown entities through the code of conduct issued by the Public Service Commissioner
 - 12. **agree** that a 'spirit of service to the community' should be removed as a standalone section, and instead restored to the purpose of the Public Service as in previous legislation

Streamlining Public Service chief executives' responsibilities

- 13. **note** that it is important for chief executives to be clear about their responsibilities so that they can support Ministers effectively
- 14. **note** that the Public Service Act 2020 added significant new responsibilities for chief executives
- 15. **agree** that the establishing provisions for Interdepartmental Executive Boards and Functional Chief Executives be amended to require that the Orders in Council set an end date for their operation
- 16. **agree** to direct Board Chairs to review existing Interdepartmental Executive Boards and advise relevant Ministers whether they remain necessary, and host departments for departmental agencies and functional chief executives to undertake similar reviews in respect of these agencies, in consultation with the Public Service Commission
- 17. **note** that I have asked officials to work with Treasury on possible changes to the Public Finance Act 1989 to address concerns around reporting and financial arrangements for Interdepartmental Executive Boards, Functional Chief Executives and Departmental Agencies

18. **agree** that the Act will no longer require chief executives to promote diversity and inclusion
19. **agree** that similar functions relating to diversity and inclusion and equitable employment should be removed from the Commissioner's general functions, and from the lists of matters that may be addressed by the content of Government workforce policy statements, and the content of the Commissioner's state of the public service briefing
20. **agree** that the Act will no longer require chief executives to have policies which recognise the importance of achieving pay equity between male and female employees, and the importance of decisions about remuneration being free from bias including gender bias
21. **agree** that the Department of the Prime Minister and Cabinet will issue guidance on long-term thinking and coordinate a single Long-Term Insights Briefing once each term of government.

Authorised for lodging

Hon Judith Collins KC

Minister for the Public Service



Cabinet Social Outcomes Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Amendments to the Public Service Act 2020: Paper 1: Clarifying the Role and Responsibilities of the Public Service

Portfolio Public Service

On 26 March 2025, the Cabinet Social Outcomes Committee:

Background

- 1 **agreed** that it is necessary to amend the Public Service Act 2020 (the Act);
- 2 **noted** that the reform of the Act aims to build upon the measures the Government has already taken to address issues of performance and efficiency in progressing the Government's programme;
- 3 **noted** that the Bill to give effect to the amendments to the Act is seeking a category 3 priority on the 2025 Legislation Programme (to be passed by the end of 2025);
- 4 **noted** that the paper under SOU-25-SUB-0028 forms part of a package of reforms also described in *Paper 2: Driving Improvements in Performance* [SOU-25-SUB-0029] and *Paper 3: Breaking Down Silos* [SOU-25-SUB-0030];
- 5 **noted** that the amendments to the Act in the paper under SOU-25-SUB-0028 aim to:
 - 5.1 clarify the role of the Public Service and streamline the responsibilities of Public Service chief executives under the Act;
 - 5.2 emphasise the fundamental principles of the Public Service;

Clarifying the role of the Public Service

- 6 **noted** that the Act describes a large number of attributes spread over many sections, which are important in explaining to public servants their role, with the primary elements contained in the purpose, principles, and chief executive responsibilities;
- 7 **agreed** that the purpose of the Public Service should be clarified to focus on:
 - 7.1 supporting the government to develop and implement its policies;
 - 7.2 delivering high-quality and efficient public services;
 - 7.3 meeting the needs of New Zealanders; and

7.4 acting in accordance with law;

8 **noted** that the ‘general responsibilities’ of Public Service chief executives are of fundamental importance for defining how the government and Public Service interact, but that these have been de-emphasised in the Act;

9 **agreed** that the ‘general responsibilities’ of Public Service chief executives should be brought forward in the legislation, renamed as ‘principal responsibilities’, and clarified to focus their effort on:

9.1 giving advice to Ministers;

9.2 implementing Ministers’ lawful instructions;

9.3 the efficient and economical delivery of the goods, services, and regulatory functions provided by the agency toward the intended outcomes;

9.4 the operation of their agency;

9.5 financial stewardship of the agency, including building and maintaining a financially literate workforce;

9.6 improving interoperability, coordination, and collaboration across public service agencies;

9.7 the agency’s responsiveness on matters relating to the collective interests of government; and

9.8 supporting Ministers to act as a good steward of the public interest, including by maintaining public institutions, assets, liabilities, and the currency of any legislation administered by their agency;

10 **agreed** that the ‘principles’ of the Public Service (including merit-based appointments and political neutrality) should be retained and follow the responsibilities above, and obligations relating to these principles should be streamlined;

11 **noted** that the principle of political neutrality also applies to all Crown entities through the code of conduct issued by the Public Service Commissioner;

12 **agreed** that a ‘spirit of service to the community’ should be removed as a standalone section, and instead restored to the purpose of the Public Service as in previous legislation;

Streamlining Public Service chief executives’ responsibilities

13 **noted** that it is important for chief executives to be clear about their responsibilities so that they can support Ministers effectively;

14 **noted** that the Act added significant new responsibilities for chief executives;

15 **agreed** that the establishing provisions for interdepartmental executive boards and functional chief executives be amended to require that the Orders in Council set an end date for their operation;

- 16 **agreed** to direct Board Chairs to review existing interdepartmental executive boards and advise relevant Ministers whether they remain necessary, and host departments for departmental agencies and functional chief executives to undertake similar reviews in respect of these agencies, in consultation with the Public Service Commission;
- 17 **noted** that the Minister for the Public Service has asked officials to work with the Treasury on possible changes to the Public Finance Act 1989 to address concerns around reporting and financial arrangements for interdepartmental executive boards, functional chief executives, and departmental agencies;
- 18 **agreed** that the Act no longer require chief executives to promote diversity and inclusion;
- 19 **agreed** that similar functions relating to diversity and inclusion and equitable employment should be removed from the Public Service Commissioner's general functions, and from the lists of matters that may be addressed by the content of government workforce policy statements, and the content of the Commissioner's state of the public service briefing;
- 20 **agreed** that the Act will no longer require chief executives to have policies which recognise the importance of achieving pay equity between male and female employees, and the importance of decisions about remuneration being free from bias, including gender bias;
- 21 **agreed** that the Department of the Prime Minister and Cabinet will issue guidance on long-term thinking and coordinate a single Long-Term Insights Briefing once each term of government.

Jenny Vickers
Committee Secretary

Present:

Hon David Seymour
Hon Nicola Willis
Hon Louise Upston (Chair)
Hon Judith Collins KC
Hon Dr Shane Reti
Hon Tama Potaka
Hon Nicole McKee
Hon Casey Costello
Hon Chris Penk
Hon Penny Simmonds
Hon Karen Chhour
Hon Scott Simpson

Officials present from:

Office of the Prime Minister
Officials Committee for SOU
Office of the Minister for the Public Service
Office of the Minister for Vocational Education



Cabinet

Minute of Decision

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Report of the Cabinet Social Outcomes Committee: Period Ended 28 March 2025

On 31 March 2025, Cabinet made the following decisions on the work of the Cabinet Social Outcomes Committee for the period ended 28 March 2025:

out of scope

SOU-25-MIN-0028


Amendments to the Public Service Act 2020:
Paper 1: Clarifying the Role and
Responsibilities of the Public Service
Portfolio: Public Service

CONFIRMED

out of scope

out of scope

out of scope



Rachel Hayward
Secretary of the Cabinet