

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 3 Breaking Down Silos
- SOU Minute SOU-25-MIN-0030
- 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 3 – Breaking down silos

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 Act 2020 requires amendments in several areas, and this is the third in a suite of three papers describing these amendments:

Clarify the role of the Public Service	Analysis in Paper 1: Clarifying the role and responsibilities of the Public Service
Streamline chief executive responsibilities	
Reinforce the principle of merit-based appointments	

Improve chief executive and agency performance management	Analysis in this Paper 2: Driving improvements in performance
Utilise and improve tools to reduce silos	Analysis in this paper: Breaking down silos
Better risk management	

5. Agencies should be focused on delivering value for money for New Zealanders. There are also times when they can be more efficient and more effective by working together. I am concerned that there is a tendency for agencies to operate in silos, particularly with regard to costly digital technology investments and adherence to common standards. There needs to be better use of existing tools for working together (such as system leaders issuing standards, interdepartmental ventures for jointly investing in assets, and joint operational agreements to reduce duplication).
6. In addition, there need to be more levers for 'system leaders' such as the Government Chief Digital Officer to drive improvements in the system through leadership roles in agencies (for example, agency Chief Information Officers). The Government has also been concerned about the capability and quality of financial management in agencies, and similar levers could be used to ensure better and more efficient use of taxpayer money.
7. There has been a varied approach to considering the use of specific digital products and vendors where there may be concerns about information security and national interest. These technologies are fast-moving, and agencies are making individual decisions on the fly, leading to variation in practice that compromise information security across the Public Service.

Background

8. The importance of the Public Service and its statutory framework, the Public Service Act 2020, are described in Paper 1 of this suite of papers. That paper describes how the Public Service Act 2020 (the Act) is too prescriptive and how agencies need to stick to the basics and deliver them well. Paper 2 describes changes that are needed to improve appointments and chief executive and agency performance.
9. However, the problems with the Act go beyond the workings of the individual agencies of the Public Service, and concern how agencies link up when appropriate. We have a highly decentralised Public Service with fragmented decision-rights, and a longstanding problem with agencies working in 'silos' where this is inappropriate. Department chief executives work with comparatively high levels of autonomy with their main responsibility being to portfolio Ministers. That is largely positive but there are some things on which we expect agencies to link up for efficiency and effectiveness reasons.
10. One good example is investment in digital technology where it makes sense for agencies to align their activity with a central strategy. Agencies are making large investments that duplicate assets of other agencies, or that result in systems that limit interoperability between agencies. The Government Chief

Digital Officer (GCDO) and the Treasury are currently preparing joint advice on the drivers of inefficiencies across New Zealand's approach to digital government and digital service delivery, with the aim of significantly reducing costs. For example, we could consider imposing a requirement that if there is a large-scale IT spend in a department that is above a certain threshold that it be procured centrally.

11. The Act contains extensive provisions designed to enable the Public Service to join up around these cross-cutting issues. These have been applied unevenly.
12. Another example is in assessing products and vendors from the perspective of national security or national interest. Our current practice requires all agencies to make this assessment. Not only is this duplicative and wasteful, but agencies also differ in their capability to make this assessment. The restriction of specific products and vendors on the basis of national security or national interest should be coordinated centrally.
13. Additionally, lead agencies report that the leaders of some back-office functions are not performing to the level required (because their senior leaders are not managing their performance, or there is a mismatch of skills and experience), and more levers are required to ensure that we have the right people in these roles and to drive performance.
14. I am aiming to build flexibility in the Public Service so that separate departments can join up effectively. For example, we could consider a requirement for smaller agencies to utilise shared services (corporate and back office services) to reduce overhead costs. This would help keep costs down and drive efficiencies especially for smaller organisations. Often there are efficiencies to be gained from doing things on a whole-of-system basis, rather than each agency reinventing the wheel. I want the statute to more effectively drive this kind of behaviour where it is appropriate. The Public Service Act 2020 focused on governance arrangements, but not on the levers to drive performance of individual leaders.

Utilising and improving tools to reduce silos

15. As described in Paper 1, chief executives need clarity of responsibilities so they can be freed up to pursue their primary functions and make changes to improve the affordability of public services. There is also an expectation that they will improve coordination and interoperability across the Public Service. In most cases, this will be achieved through making changes within their departments. However, in some cases, public services can be made more efficient or effective by departments working together.
16. I am concerned that chief executives are operating in silos, particularly regarding costly information and communication technology investments. Agencies have signalled their intent to seek investment of \$12.6 billion in digital assets over the next five years.
17. While the potential for savings is currently unquantified, it is being considered by the GCDO and Treasury. I believe there are opportunities to realise cost

savings and improve the effectiveness of services by making these investments in a more strategic manner.

18. The Act introduced several tools that would theoretically break down silos, allow greater consistency, and support departments to make joint investments where this offers efficiency savings and better resource utilisation. These include three operational tools, which have not yet been used, the 'interdepartmental venture' (s 32-37), the 'joint operational agreement' (s 38), and the 'system leader standard' (s 57). The GCDO intends to issue such a standard for providing third parties with access to government-held personal information.
19. I intend to work with the Public Service Commissioner (the Commissioner) and system leaders, such as the GCDO, to make targeted use of the tools available to break down silos. This will include considering where and how existing system lead Cabinet mandates could be refreshed and reissued as standards.

Key positions

20. A key lever for system leaders to improve the performance of back-office functions is through ensuring there are competent people in the relevant roles, and having input into the management of their performance. If the Public Service is to improve, for example, the use of digital technologies, it is necessary that departments have employees capable of leading digital transformation, including from the private sector when better candidates can be found there, and better talent development and talent management of candidates from the public sector.
21. Various jurisdictions, including Singapore, have utilised 'dual-key' appointment systems for key positions, where the department chief executive and the system leader must jointly agree to relevant appointments.
22. The State Sector Amendment Act 2013 allowed the Commissioner to designate 'key positions' and delegate another public servant the power to veto appointments to these positions. This was used to allow, for example, a representative of the Treasury to sit on the selection panel for all agency Chief Financial Officers, to ensure that candidates were suitably competent. This was removed in the Public Service Act 2020 because it placed an administrative burden on the Commission, and because department chief executives resisted the interference.
23. I propose to reintroduce provisions to provide system leaders with a dual-key role in the appointment and performance management of relevant positions. The Act should be amended to:
 - give the Commissioner the power, after consulting with the relevant chief executive, to designate key positions within the Public Service;
 - allow the chief executive to only appoint an employee to a key position with the Commissioner's agreement; and

- require the Commissioner to be consulted on performance reviews of that employee.
24. The Commissioner would then be able to delegate this role to the relevant system leader as required, for example, to the GCDO to be involved in the selection and performance review of agency Chief Information Officers, or to the Government Chief Accountant to be involved in the selection and performance review of agency Chief Financial Officers.

Better risk management

25. In an environment of heightened strategic competition, other states may seek to influence or obtain information held by the New Zealand government, or disrupt critical services, in order to advance their interests.
26. The Public Service needs to manage the risk that using certain products, services or vendors may allow malicious actors to access and control sensitive information, inadvertently provide those actors with the ability to disrupt critical infrastructure, or otherwise give rise to risks to national security or the broader national interest. The use of certain technologies is a current and pressing example of this risk, as discussed below, but the use of any third-party service without appropriate controls or screening could compromise New Zealand's national security and national interest.
27. Certain technologies, particularly computer or mobile phone applications and internet connected devices, can and have presented security weaknesses that enable foreign governments and criminals to access government data. Vulnerable technologies also risk disruptions to the delivery of essential public services. Technology moves rapidly, and we want to encourage the Public Service to utilise new technologies to better serve New Zealanders and make better use of taxpayer money. But these benefits should not come at the cost of risking New Zealand's national security.
28. While much of this risk can be managed through existing procurement and protective security rules, there are certain cases where the Public Service needs clear direction on what products, services or vendors they cannot use or should only use with specific cautions. Many of these services or products are created or owned offshore, and it is important that any restriction is consistent with New Zealand's international obligations and interests.
29. I propose that the Commissioner be given the power to issue a direction to one or more agencies within the Public Service and agencies mandated in the Protective Security Requirements (PSR) to restrict (including prohibit) the use of a specific vendor, service or product, or class of vendors, services or products, to manage risk to national security or the national interest. The Commissioner is the preferred statutory officer to hold this power because of their leadership responsibility and mandate over Public Service agencies, and the absence of another officer with responsibility for national security across the public sector.

30. I propose that before issuing such a direction, the Commissioner must consult the Minister for the Public Service, and seek the advice of public sector Chief Executives, for example, the Directors-General of the intelligence and security agencies and the Chief Executive of the Department of the Prime Minister and Cabinet as the National Security Advisor regarding the risk to national security, and the Secretary of Foreign Affairs and Trade regarding New Zealand's international obligations and interests.
31. I propose that in setting such a direction the Commissioner must have regard to the nature and extent of the risk to national security and the national interest, the principle that the direction should be proportional to the risk, New Zealand's international obligations and relationships, the anticipated benefits from the direction, the impact on agencies, and the impact on markets and trade.
32. The Commissioner's determination may rely on classified information, and the necessary safeguards should be put in place to protect classified information in the event of review procedures or court proceedings, consistent with other legislation.
33. I propose that the Commissioner should be given the power to issue corresponding guidance to wider State services. This is appropriate as the national security risks being managed by these proposals affect the wider state sector, and New Zealanders who rely on their services, in the same way they affect the Public Service.

Cost-of-living Implications

34. The proposals in this suite of papers have no cost-of-living implications.

Financial Implications

35. The various proposals included in this suite of papers have small, unquantified, potential financial implications for departments resulting from increasing or decreasing their responsibilities. Where their responsibilities are lessened, and costs marginally decrease, I expect agencies to reprioritise any savings toward achieving the Government's priorities. Where their responsibilities are increased, I expect agencies to deliver these responsibilities through reprioritising effort from within baselines.

Legislative Implications

36. Legislation is required to make the amendments to the Public Service Act 2020 that are proposed in this suite of papers. Some of the proposals will require removal of, or changes to, existing provisions.
37. The 2025 legislation programme includes a Public Service Amendment Bill with a priority 3 categorisation (to be passed by the end of 2025).
38. The primary Act is binding on the Crown. Amendments to the Act will not change status quo.

Impact Analysis

Regulatory Impact Statement

39. The Ministry for Regulation has determined that a number of proposals in this suite of papers are exempt from the requirement to provide a Regulatory Impact Statement. The exemptions are on the grounds that the proposals have no, limited, or only minor economic, social, or environmental impacts given the changes are to the internal administrative or governance arrangements of the New Zealand government.
40. A Regulatory Impact Statement for the remaining proposals has been prepared and provided alongside this suite of papers.
41. The QA Panel assessed the Regulatory Impact Statement as meeting the criteria for quality assurance. Their feedback noted “it provides information to enable the merits and costs of the proposals to be assessed by Ministers. Some sections could be strengthened, including the assessment of costs and benefits. However, we also note that the analysis is inherently limited because the amendments are intended to have a clarifying and enabling effect on the operation of the Public Service. It is therefore difficult to directly connect the proposals to concrete outcomes. We also note the challenging timeframes for the analysis. The limitations and constraints are identified in the analysis.”

Population Implications

42. This suite of papers has no direct population implications as the proposals relate to changes to the internal administrative or governance arrangements of the New Zealand government.

Human Rights

43. Amendments to s73 (good employer provisions) discussed in Paper 1 of this suite may have human rights implications, that will need to be further assessed through Bill of Rights Act vetting.

Use of External Resources

44. No external resources were used in the development of this suite of papers.

Consultation

45. Departments and Departmental Agencies were consulted on this suite of papers. The Department of the Prime Minister and Cabinet was informed.
46. Ministers were consulted on this suite of papers.
47. There is no public consultation planned as the proposals relate to changes to the internal administrative or governance arrangements of the New Zealand government.

Communications

48. The communications approach around the amendments and associated issues will be managed by my office, including release of this suite of Cabinet papers.

Proactive Release

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

Recommendations

I recommend that the Committee:

1. **note** that this paper forms part of a package of reforms also described in *Paper 1: Clarifying the Role and Responsibilities of the Public Service* and *Paper 2: Driving Improvements in Performance*
2. **note** that the proposed amendments to the Public Service Act 2020 (Act) in this paper aim to:
 - 2.1 break down silos to improve delivery for New Zealanders and the efficient use of taxpayer money; and
 - 2.2 restrict the use of specific products, services and vendors when these present a risk to national security or the national interest

Improve tools to reduce silos

3. **note** that it may be possible to improve performance and realise efficiency gains by improving coordination between departments, for example, with regard to digital technology investments
4. **note** that existing tools for improving coordination have not been well utilised, and that I intend to work with lead agencies to determine how these could be used to improve performance

Key positions

5. **agree**, in order to improve coordination between agencies, to:
 - 5.1 give the Public Service Commissioner (the Commissioner) the power, after consulting with the relevant chief executive, to designate key positions within the Public Service, such as Chief Financial Officers or Chief Information Officers,
 - 5.2 allow chief executives to only appoint an employee to a key position with the Commissioner's agreement,
 - 5.3 require the Commissioner to be consulted on performance reviews of that employee, and
 - 5.4 allow the Commissioner to delegate these functions as required

Better risk management

6. **agree**, in order to manage risk to New Zealand's national interest and national security, to allow the Commissioner to issue a binding direction to one or more agencies within the Public Service and agencies mandated in the Protective Security Requirements (PSR) to restrict (including prohibit) the use of a specific vendor, service or product, or class of vendors, services or products, by or within those agencies
7. **agree** that, prior to issuing such a direction, the Commissioner must:
 - 7.1 consult with the Minister for the Public Service, and
 - 7.2 seek the advice of public sector chief executives, including but not limited to:
 - 7.2.1 the Directors-General of NZSIS and the GCSB, and the Chief Executive and Secretary of the DPMC, about national security, and
 - 7.2.2 the Chief Executive and Secretary of Foreign Affairs and Trade about international obligations and interests
8. **agree** that, in setting such a direction, the Commissioner must have regard to:
 - 8.1 the nature and extent of the risk to national security or the national interest
 - 8.2 the principle that the direction should be proportional to the nature of the risk
 - 8.3 the anticipated benefits to New Zealand from preventing, sufficiently mitigating or removing the risk
 - 8.4 New Zealand's international obligations and relationships
 - 8.5 where the direction relates to a restriction on the use of a particular product, service, or vendor, the impact of the direction on the users of the vendor, service or product
 - 8.6 the potential impact of the direction on markets and trade, and
 - 8.7 any other matters the Commissioner considers relevant
9. **agree** that the direction must be complied with by any Public Service agencies to which it applies
10. **agree** that the Commissioner's determination may rely on classified information, and necessary safeguards should be put in place to protect classified information in the event of review procedures or court proceedings, consistent with other legislation

11. **agree** that the Commissioner's direction may also form the basis of corresponding guidance issued to one or more agencies within the State Services

Drafting Instructions

12. **authorise** the Minister for the Public Service to issue drafting instructions to the Parliamentary Counsel Office to amend the Public Service Act 2020 to give effect to the Cabinet decisions arising from these papers
13. **authorise** the Minister for the Public Service to make decisions on both minor policy and technical amendments, consistent with the policy described in these papers
14. **authorise** the Parliamentary Counsel Office to make technical or drafting changes that arise during the drafting of the legislation
15. **note** that I will report back to Cabinet in July 2025 with a draft Bill and timeline for the parliamentary process.

Authorised for lodgement

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 3: Breaking Down Silos

Portfolio **Public Service**

On 26 March 2025, the Cabinet Social Outcomes Committee:

Background

- 1 **noted** that the paper under SOU-25-SUB-0030 forms part of a package of reforms also described in *Paper 1: Clarifying the Role and Responsibilities of the Public Service* [SOU-25-SUB-0028] and *Paper 2: Driving Improvements in Performance* [SOU-25-SUB-0029];
- 2 **noted** that the amendments to the Public Service Act 2020 (the Act) in the paper under SOU-25-SUB-0030 aim to:
 - 2.1 break down silos to improve delivery for New Zealanders and ensure the efficient use of taxpayer money; and
 - 2.2 restrict the use of specific products, services, and vendors when these present a risk to national security or the national interest;

Improve tools to reduce silos

- 3 **noted** that it may be possible to improve performance and realise efficiency gains by improving coordination between departments, for example, with regard to digital technology investments;
- 4 **noted** that existing tools for improving coordination have not been well utilised, and that the Minister of the Public Service intends to work with lead agencies to determine how these could be used to improve performance;

Key positions

- 5 **agreed**, in order to improve coordination between agencies, to:
 - 5.1 give the Public Service Commissioner (the Commissioner) the power, after consulting with the relevant chief executive, to designate key positions within the Public Service, such as Chief Financial Officers or Chief Information Officers;

- 5.2 allow chief executives to only appoint an employee to a key position with the Commissioner's agreement;
- 5.3 require the Commissioner to be consulted on performance reviews of that employee;
- 5.4 allow the Commissioner to delegate these functions as required;

Better risk management

- 6 **agreed**, in order to manage risk to New Zealand's national interest and national security, to allow the Commissioner to issue a binding direction to one or more agencies within the Public Service and agencies mandated in the Protective Security Requirements (PSR) to restrict (including prohibit) the use of a specific vendor, service, or product, or class of vendors, services or products, by or within those agencies;
- 7 **agreed** that, prior to issuing such a direction, the Commissioner must:
 - 7.1 consult with the Minister for the Public Service; and
 - 7.2 seek the advice of public sector chief executives, including but not limited to:
 - 7.2.1 the Directors-General of the New Zealand Security Intelligence Service and the Government Communications Security Bureau, and the Chief Executive and Secretary of the Department of the Prime Minister and Cabinet, about national security; and
 - 7.2.2 the Chief Executive and Secretary of Foreign Affairs and Trade about international obligations and interests;
- 8 **agreed** that, in setting such a direction, the Commissioner must have regard to:
 - 8.1 the nature and extent of the risk to national security or the national interest;
 - 8.2 the principle that the direction should be proportional to the nature of the risk;
 - 8.3 the anticipated benefits to New Zealand from preventing, sufficiently mitigating or removing the risk;
 - 8.4 New Zealand's international obligations and relationships;
 - 8.5 where the direction relates to a restriction on the use of a particular product, service, or vendor, the impact of the direction on the users of the vendor, service or product;
 - 8.6 the potential impact of the direction on markets and trade; and
 - 8.7 any other matters the Commissioner considers relevant;
- 9 **agreed** that the direction must be complied with by any Public Service agencies to which it applies;
- 10 **agreed** that the Commissioner's determination may rely on classified information, and necessary safeguards should be put in place to protect classified information in the event of review procedures or court proceedings, consistent with other legislation;
- 11 **agreed** that the Commissioner's direction may also form the basis of corresponding guidance issued to one or more agencies within the State Services;

Drafting Instructions

- 12 **invited** the Minister for the Public Service to issue drafting instructions to the Parliamentary Counsel Office to amend the Act to give effect to the decisions arising from the papers under SOU-25-SUB-0028, SOU-25-SUB-0029, and SOU-25-SUB-0030;
- 13 **authorised** the Minister for the Public Service to make decisions on both minor policy and technical amendments, consistent with the policy described in the suite of papers under SOU-25-SUB-0028, SOU-25-SUB-0029, and SOU-25-SUB-0030;
- 14 **authorised** the Parliamentary Counsel Office to make technical or drafting changes that arise during the drafting of the legislation;
- 15 **noted** that the Minister for the Public Service will report back to Cabinet in July 2025 with a draft Bill and timeline for the parliamentary process.

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

out of scope


SOU-25-MIN-0030

Amendments to the Public Service Act 2020:
Paper 3: Breaking Down Silos
Portfolio: Public Service

CONFIRMED

out of scope

out of scope



Rachel Hayward
Secretary of the Cabinet