



The provision of free and frank advice, as central to our system of government, is well acknowledged. Free and frank advice demonstrates and upholds the impartiality that is fundamental to maintaining a politically neutral Public Service. Having the capacity and capability to provide this underpins the integrity, legitimacy and performance of New Zealand's system of government. Free and frank advice is one of the five public service principles set out in section 12 of the Public Service Act 2020.

Good policy decisions, informed by free and frank advice, optimise services and results for New Zealanders, including future generations. Investing appropriately in policy stewardship means we are well placed to provide free and frank advice to successive governments.

This guidance is issued by the Public Service Commissioner under section 19 of the Public Service Act 2020. The Commissioner acknowledges the role of the policy profession, led by Ben King, Chief Executive, Department of the Prime Minister and Cabinet and Head of the Policy Profession, and [The Policy Project](#), Department of the Prime Minister and Cabinet, in the development of this guidance.

Scope of the guidance

This guidance sets out expectations that public service chief executives provide free and frank advice to Ministers, engage in effective policy stewardship and ensure that their agencies understand these important fundamentals. Agencies in the broader public sector may also find this guidance a useful reference point for good practice.

The advice referred to in this guidance includes stand-alone as well as streams or suites of advice to Ministers that are tendered orally and in writing. Written advice includes briefings, aide mémoires, Regulatory Impact Assessments, A3s and other documents, emails and texts.

This guidance covers:

- Free and frank advice: delivery and effectiveness
- Policy stewardship: capability to provide future focused research, evaluation and analysis.

Free and frank advice

Under [section 12](#) of the Public Service Act 2020, Public Service chief executives and their agencies are responsible for upholding the public service principles which include giving advice to Ministers in a free and frank manner. This means providing advice that:

- identifies the nature, scale and significance of the policy issue or opportunity (with supporting evidence)
- is politically neutral while also being aware of relevant political contexts
- recognises the historic, contemporary and potential longer term dimensions or conditions
- is comprehensive, objective and balanced to cover the range of options that address the issue(s)
- is honest about where the opportunities, benefits, costs, pitfalls and risks of all options are

and about the limitations, assumptions and information gaps in analysis

- is clear about any trade-offs involved and which option(s) on balance are recommended
- delivers any hard truths in the most constructive way possible
- covers implementation considerations.

The convention also means ensuring the advice is understood, which may include repeating the advice if necessary.

Benefits

Free and frank advice ensures that Ministers individually and collectively are better informed about the “pros” and “cons” and uncertainties associated with the decisions they are being asked to take. It also prepares Ministers for Cabinet and Cabinet Committee discussions with their colleagues and for stakeholder engagements.

Free and frank advice reduces the risk of judicial review of Ministerial decisions and means that policy is more robust when implemented. This gives rise to fewer surprises and less need for rework late in the process. It helps optimise services and results for New Zealanders.

Delivering effective free and frank advice

Giving free and frank advice is designed to support Ministers to achieve their objectives. To be effective, free and frank advice depends on a relationship of trust and confidence between a Minister and their officials. It may be useful to discuss with Ministers how they benefit from free and frank advice.

Free and frank advice is more likely to be heard and acted on when it acknowledges Ministers’ and the Government’s policy intent and priorities and is provided in a form that fits Ministers’ communication style preferences. Operating within the context is key. When delivering free and frank advice, consider the most appropriate timing, the level of trust and/or confidence of the Minister and the seniority, experience or credibility of the advisor.

Sometimes the timeframe a Minister specifies for providing advice is insufficient to allow full advice to be developed. Advise the Minister and give the best free and frank advice possible at the time and provide more fulsome advice later.

Free and frank advice is expected to be in full and in written form. A record of key points and decisions should be made of any advice given orally, in keeping with the Public Records Act 2005 that states every public office “must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice” ([s 17\(1\)](#)). This enables Ministers and the Public Service to be held to account.

If there are significant changes in the operating environment, proactively advise Ministers of them, especially if the assessment of the changes highlights risks or problems to be managed, or opportunities to be realised.

Under the Public Service Act 2020 ([Schedule 6, clauses 8 and 9](#)), a departmental chief executive must publish a [Long term Insights Briefing](#) at least once every three years. These make available information about long-term trends, risks and opportunities. They are prepared independently of Ministers and can give impartial analysis including policy options. They can be an important vehicle for free and frank advice.

Briefing papers and Regulatory Impact Assessments are other ways to deliver free and frank advice. These should be full and include consideration of, and advice on, a comprehensive suite of options and their potential benefits, costs and risks. Subsequently these can be summarised in a Cabinet paper.

Tendering free and frank advice jointly with other agencies is best practice if an issue spans portfolios. Joint advice can agree on the problems or opportunities and the best ways to address them or identify for Ministers clear and coordinated trade-offs based on different values or priorities.

Policy Stewardship

The public service has a duty of stewardship to look ahead and provide advice about the future challenges and opportunities New Zealand faces. It is the responsibility of chief executives to manage agency capability and capacity to offer free and frank advice to successive governments. Stewardship is one of the five public service principles set out in section 12 of the Public Service Act 2020 and policy stewardship is an element of that.

Chief executives are responsible for building and maintaining expertise, or ensuring easy and quick access to expertise, on:

- emerging issues that are likely to be important to long-term public interests
- current issues that are important to the public interest now but where the current government does not wish to focus its attention or has not sought advice to date
- the suitability of existing regulatory and other policy interventions for current and future conditions.

Benefits

The guidance provided to long-lived administrations on future and emerging issues ensures they have a programme of action capable of dealing with change and reduces their risk of being accused of lacking foresight. Equally when there is a change of government, agencies are well equipped to serve them.

Policy will be more robust and resilient when implemented if its development is mindful of future contexts, risks and opportunities. In addition, policy failures are less likely if agencies advise proactively on emerging problems, vulnerabilities and opportunities for policy performance improvement.

Effective policy stewardship

Building the capability to provide quality strategic advice on medium to longer-term issues is a challenge for the system. It is necessary to allocate sufficient resources to enable future-focused research, analysis and evaluation beyond the immediate policy priorities and preferences of the government of the day. This is a legal responsibility. Nonetheless, Ministers are responsible for decisions on spending from within appropriations. It may be useful to discuss with Ministers the benefits of policy stewardship, how it is reflected in the policy work programme and how the required people and other capability is being or will be resourced.

Consideration needs to be given to the appropriate level of investment in developing future-focused capability. This includes investing in agency capability, contributing to pooled investment in sector or system groups' shared capability and supporting, funding or engaging with external experts who contribute research and analysis (for example, academics, think tanks or other

institutions). Mature policy stewardship is embedded throughout policy teams and processes rather than relying on dedicated teams or individuals.

When discussing issues beyond the immediate priorities and preferences of the government of the day with external individuals or groups, it is useful to ensure all parties understand that such work is stewardship thinking.

Chief executives may like to use strategy documents to outline the approach to stewardship and addressing future opportunities, challenges and resources.

Useful Links

- [The Policy Project](#), Department of the Prime Minister and Cabinet – includes resources to help build policy capability and has links to [resources on free and frank advice](#)
- Public Service Act 2020 ([section 12](#)) – includes free and frank advice as one of the public service principles and sets out chief executive responsibility for upholding the principles when carrying out their responsibilities and functions. Guidance on the [public service principles](#) includes guidance on the principles of Free and Frank Advice and Stewardship
- Public Records Act 2005 ([section 17\(1\)](#)) and ([section 3\(c\)\(i\)](#)) – provides information regarding government agency responsibilities for creating and maintaining official records
- Cabinet Manual especially paragraphs [3.8 to 3.30](#) – provides advice on free and frank advice backed by policy capability
- Ombudsman - has released guidance on [free and frank opinions and the OIA](#).