

Report Title:	Public Service Amendment Bill - Summary of submissions and minor and technical amendments arising		
Report No:	MOSR 2025-0686		
Date:	18 September 2025		
To:	Hon Judith Collins KC, Minister for the Public Service		
Action Sought:	Agree to a range of minor and technical amendments to the Bill arising from submissions and further analysis	Due Date	26 September 2025
Contact Person:	Callum Butler, Manager – Strategy, Policy and Integrity		
Contact No:	9(2)(a) privacy		
Encl:	No	Priority:	High (responds to Select Committee timeframe)
Security Level:	IN CONFIDENCE		

Purpose of the Report

1. This report provides you with a summary of submissions on the Public Service Amendment Bill (the Bill). It seeks decisions on a small number of potential changes in response to these submissions that may be consistent with your policy intention and mandate to make minor and technical changes.
2. It should be read in conjunction with *MoSR 2025-0687*, which proposes an extension to an existing amendment to more efficiently provide for the option of including existing public service chief executives on chief executive interview panels.

Executive Summary

3. We are in the process of analysing submissions on the Bill and expect to deliver our Departmental Report to the Governance and Administration Committee (the Committee) in early October. Of 93 submitters on the Bill, 6 were in support, 67 opposed, and 18 either partially supported or did not have a discernible position. Key themes expressed in submissions to date have included:
 - a) concern that the Bill does not provide for the public service to maintain a focus on the long-term public interest (in light of the removal of terms from the purpose statement and the consolidation of long-term insights briefings);
 - b) concern that the Bill may undermine political neutrality or increase politicisation of the public service or its leaders (This is based on: the removal of provisions allowing for the re-appointment of chief executives without a contestable process, the requirements for a performance framework and consultation with relevant Ministers when the Commissioner is reviewing chief executive performance, the proposals to designate 'key positions' across the public service and give the Commissioner a role in these

appointments, and the proposal to ensure members of the Policy Advisory Group in the Department of Prime Minister and Cabinet can be appointed for fixed-terms.);

- c) opposition to removal of diversity and inclusion-related provisions (50% of submitters) and removal of provisions recognising the importance of pay equity and freedom from bias in remuneration (22% of submitters).
4. While there were no significant changes proposed in submissions that we consider consistent with your policy intention, there is a small number of minor or technical changes that could improve the Bill and respond to some of the views of submitters. If you are comfortable with these, we would recommend them in our departmental report and work with the Parliamentary Counsel Office on the specific drafting.

Recommended Action

We recommend you note the contents of this report; and

- a **agree** to amend the Public Service Amendment Bill to provide that:

<i>i</i>	while the Department of Prime Minister and Cabinet will determine the content of the long-term insights briefing, the Secretary will seek suggestions and/or specific proposed content from public service agencies before doing so;	<i>Agree/ disagree</i>
<i>ii</i>	the Department of Prime Minister and Cabinet will not be required to consult publicly on the proposed subject matter of the long-term insights briefing (but will still be required to consult on the draft);	<i>Agree/ disagree</i>
<i>iii</i>	provisions in the Bill relating to the preparation of the long-term insights briefing will have a commencement date of 1 June 2026;	<i>Agree/ disagree</i>
<i>iv</i>	the Commissioner must set minimum standards of integrity and conduct in relation to the public service principles and values (and may set them for other integrity matters);	<i>Agree/ disagree</i>
<i>v</i>	the Commissioner, when considering whether to issue a direction to restrict or prohibit the use of a product, service, or vendor by the public service to manage risk to national security or the national interest, must have regard to the impact on relevant agencies or individuals working in those agencies, rather than all potential users of that product or service;	<i>Agree/ disagree</i>
<i>vi</i>	should the Public Service Commissioner undertake a review of the New Zealand Police under the proposed performance improvement review provisions, this review must be limited to the functions listed in section 16(1) of the Policing Act 2008; and	<i>Agree/ disagree</i>

- b **agree not** to amend the Public Service Amendment Bill to require consideration of whether minimum standards of integrity and conduct should be applied to third-party providers via contracts for services but explore further provision for this in expectations or guidance.

Agree/ disagree

Hon Judith Collins KC
Minister for the Public Service

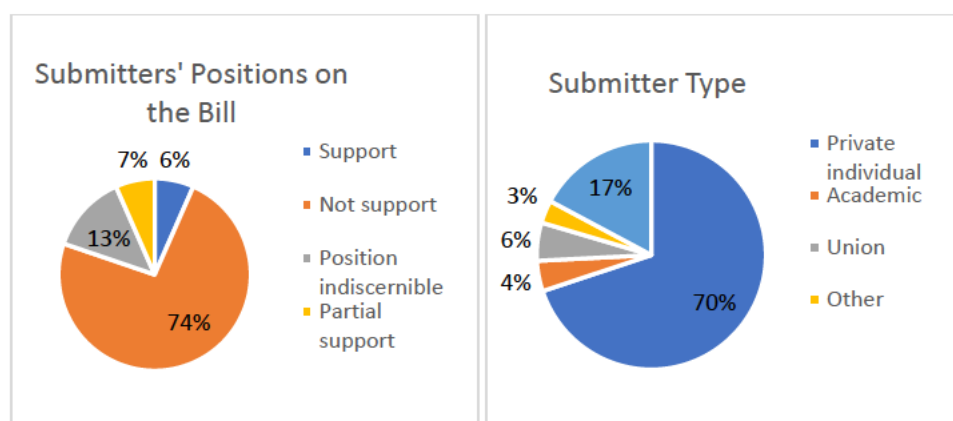
Background

5. The Bill received its first reading on 31 July and was referred to the Governance and Administration Committee (the Committee). Submissions opened on 1 August and closed 31 August. We presented our Initial Briefing to the Committee on 13 August, which is working to the following indicative timeline (though we understand from your office that the Bill will now not receive its second reading until 2026).

Timeframe	Milestone
17 September	Oral submissions
15 October	Consideration of Departmental Report
5 & 12 November	Consider revision-tracked version of the Bill and commentary
19 November	Deliberation
1 December	Final Report to the House

Overview of submissions

6. There were 93 submitters on the Bill, of which 69 were individuals and 24 were organisations or groups. There were no significant 'pro-forma' submissions, although some key text from organisational submissions was replicated in those of individuals. Six submitters clearly supported the Bill, while 67 did not, with six partially supporting, and 12 not expressing a discernible position on the Bill as a whole.



7. Particularly detailed submissions were received from the New Zealand Law Society, Hāpai Public Institute of Public Professionals Aotearoa New Zealand (previously known as IPANZ), the New Zealand Public Service Association Te Pukenga Here Tikanga Mahi (PSA), Business New Zealand, the Human Rights Commission (Te Kahui Tika Tangata), Jonathon Boston (Professor of Public Policy - Victoria University of Wellington), and David Wilson (Clerk of the House of Representatives).

Initial analysis of the submissions

8. We will provide a full analysis of submissions (and our advice to the Committee on those submissions) when we provide you with a draft of the Departmental Report for your information in early October. However, key themes are set out below:

Emphasis on the long-term public interest

9. Many submitters (approximately 35%) expressed concern about how well the Bill provides for the public service to maintain a focus on the long-term public interest. This was particularly in relation to:
 - a) the proposal to remove the phrases “supports the Government to pursue the long-term public interest” and “enables both the current Government and successive governments” from the purpose statement for the public service; and
 - b) the provisions streamlining long-term insights briefings (LTIBs) into a single briefing provided by the Department of Prime Minister and Cabinet (DPMC).
10. Generally submitters felt these changes would reduce the positive expectation or emphasis on the public service to think about, plan for, or advise on long-term and emerging issues (such as technology change, climate change, or other strategic and geo-political trends) and inter-generational interests. In particular, the **Clerk of the House has submitted on the LTIB provisions**, recommending that individual agency briefings be retained (albeit with stronger coordination by a central agency) in order to facilitate Parliamentary scrutiny of the Executive (see specific discussion below).

Political neutrality and free and frank advice

11. Twenty-five submitters (approximately 27%) emphasised the importance of a politically neutral public service and/or raised concerns that the Bill may undermine political neutrality or increase politicisation of the public service or its leaders. While these views were sometimes linked to changes to the purpose statement discussed above (and in relation to active citizenship), they were also linked to:
 - a) the removal of provisions allowing for the option of re-appointing chief executives (CEs) without a contestable process;
 - b) the requirements for a performance framework and consultation of relevant Ministers when the Commissioner is reviewing CE performance;
 - c) the proposals to designate ‘key positions’ across the public service and give the Commissioner a role in these appointments; and
 - d) the proposal to ensure that members of the Policy Advisory Group in DPMC can be appointed for a fixed-term.

Diversity, equity and inclusion

12. Approximately 51% of submitters commented on the proposed repeal of provisions related to diversity and inclusion. While three supported the removal of these provisions, the vast majority opposed them. Generally speaking, these submissions asserted that the existing requirement on chief executives to be guided by the idea that the public service should reflect the make-up of society is a justified provision, necessary to correct unconscious biases against minority groups and improve fairness and integrity in public service activity. Many argued that such provisions are consistent with the principle of merit-based appointments, and some argued that removing it would be inconsistent with the Crown’s obligations under the Treaty of Waitangi and international conventions.
13. Approximately 20 submitters (22%) opposed the removal of the requirement for provisions in employment policies recognising the importance of pay equity and freedom from bias in remuneration. These comments tended to suggest that removal of these requirements would reduce emphasis or have a negative signalling effect on the Government’s

commitment to equal pay or pay equity claims. They also argued that such provisions were necessary to mitigate existing gender bias and that their removal will reduce gender equity in the public service.

Treaty of Waitangi obligations

14. In addition to comments about diversity and inclusion, five submitters argued that the Bill in general will undermine the Crown's ability to meet its obligations under the Treaty of Waitangi and have a disproportionately negative impact on Māori.

Amendments you may wish to consider

15. There were no significant changes proposed in submissions that we consider are consistent with your policy intention. However, there is a small number of minor or technical changes proposed that we recommend you consider in response to some of the views of submitters. Where you are comfortable with these changes, we would recommend them to the Committee in our departmental report.

Ensuring departmental views are reflected in a single, long-term insights briefing

16. The submission by the Clerk of the House highlights his view that many select committees have found agency-specific LTIBs a useful way of engaging with long-term issues and informing their scrutiny of the Executive¹. While he recommends retaining such briefings, he acknowledges that there is a case for a stronger central agency role in setting and coordinating the focus of briefings. He also uses language in his submission which highlights the value of departments being “responsible for their own **contributions**”, as opposed to focusing entirely on agency-specific briefings.
17. While the PSA and Hāpai Public also seek the retention of agency-specific briefings, Jonathon Boston recommends adoption of the Australian federal model for LTIBs. The Australian provisions were largely modelled on the Public Service Act 2020, but require a single briefing prepared by the ‘Secretaries Board’ – the equivalent of the New Zealand public service leadership team. Although the Secretary of the Prime Minister’s department chairs the Board (so would ultimately determine the content), this allows some debate amongst agency chief executives.

Proposed change

18. We do not propose you shift from your original proposal of a single briefing. Overlaps and duplication are real challenges under the status quo, and you are unlikely to achieve greater efficiency with agency-specific briefings. Nevertheless, we have some sympathy with the point that a comprehensive briefing depends on agencies being able to put forward significant potential content in the first instance, rather than a central agency choosing a limited scope at the outset.
19. In the current draft of the Bill, we have removed steps related to the selection of the subject matter (because we considered it implicit that DPMC would make this choice following consultation with agencies). However, we could restore a specific requirement for DPMC to determine the content, but **add an explicit step in the process for the**

¹ The Governance and Administration Committee itself reported to the House in 2023 on LTIBs. While they made several recommendations for improvements to the process, they were generally appreciative of the content of the briefings and the concept, noting that it allowed members and the public to engage with data and trends, a broader range of options, and connections between policy areas.

Secretary of DPMC to seek suggestions and/or specific content from public service agencies before doing so.

20. At the same time, we consider that any additional transaction cost introduced to the process by this step could be offset by **removing the requirement for public consultation on the subject matter** (while retaining the requirement for consultation on the actual draft briefing). This is consistent with suggestions made in DPMC's review of the provisions in 2023, and was referred to in the Clerk's submission.
21. We consider these changes would respond to some of the sentiment in submissions on this issue, without compromising on the need for a streamlined process. It may also help allay concerns about a long-term focus more generally, many of which are focused on more substantive changes to your proposed purpose statement. We have consulted DPMC on these issues, who support the proposed changes.

Aligning the timeframe for delivery of the long-term insights briefing

22. Currently, the Bill requires DPMC to provide the LTIB to the Prime Minister and Minister for the Public Service at least once in every three-year period beginning on the commencement date of Bill. If the second and third reading stages of the Bill are undertaken promptly when Parliament resumes in 2026, the commencement date for both the Bill and the three-year period could be anytime from mid-February onwards.
23. We have recently discussed this issue in more detail with DPMC and are mindful of the Standing Orders Committee's preference for LTIBs not to be presented close to an election, lest they unduly influence the outcome of that election. At the same time, no commencement timeframe is future-proof given the potential for variation in election timeframes or snap elections over time. In addition, LTIBs are arguably supposed to stimulate public debate, so we do not consider they should be tied too explicitly to the electoral cycle.
24. On balance, we **propose that 1 June 2026 would be the most robust commencement date** for these provisions, as it:
 - a) clearly separates the current process from the upcoming requirements of the Bill;
 - b) provides some contingency time/room to adjust given the current timing of the electoral cycle (in that delivery of a report mid-cycle would fall around the end of 2027, but could be brought forward or pushed back to deal with variations in the timing for the return of the writ at the next election).

Clarifying the Commissioner's mandate to set minimum standards of integrity and conduct

25. Currently, the Bill as drafted amends the mandate of the Commissioner under the Act by providing that they **must** set minimum standards of integrity and conduct, which **may** relate to the public service principles or the public service values. Trust Democracy NZ points out in their submission that this drafting is confusing, and that mandatory standards on the principles or values should be a minimum requirement. We are also conscious that there may be other integrity matters not comprehensively related to the principles or values that the Commissioner would need to provide standards for in order to maintain public trust and confidence in government.
26. For this reason, we **propose to amend this clause** to provide that the Commissioner **must** set minimum standards of integrity and conduct in relation to the public service principles and values, and **may** set such standards for other integrity and conduct matters.

Clarification to the direction power to restrict or prohibit products, services, or vendors

27. Under the Bill as currently drafted, the Commissioner must have regard to a number of considerations before issuing a direction that restricts or prohibits the use of a particular product, service, or vendor by the public service in order to manage risks to national security or the national interest. One of these considerations includes “*the effect of the direction on the **users** of the vendor, service, or product....*”.
28. When this consideration was drafted, we had contemplated it applying (as per the wider direction) only to public service ‘users’ of the product, service, or vendor. However, given the breadth of the other considerations in clause 5C(4), it is likely it would be interpreted widely as **all** users (i.e., including private and community users).
29. We are concerned it would be practically challenging to determine the follow-on implications of a prohibition for non-public service users, and do not consider such impacts should have the same weight in the decision as other specified matters (such as the nature and extent of the risk to national security). The Commissioner could also still choose to consider this factor under the discretion given to them in this clause.
30. As such, we propose to clarify that this consideration relates to the impact on relevant agencies (which are defined in the Bill) or individuals working in those agencies.

Clarifying the application of Performance Improvement Reviews to Police functions

31. The Bill currently provides a new, more specific mandate in Schedule 3 of the Act for the Commissioner to undertake agency and system performance improvement reviews. In addition to public service agencies, it applies this mandate to the non-public service departments (New Zealand Police, the New Zealand Defence Force, and the Parliamentary Counsel Office) on the basis that the Commissioner could usefully review the overall performance of such agencies without threatening their strategic separation from the public service.
32. However, we are conscious that section 100 of the Policing Act 2008 specifically clarifies that any review of Police undertaken by the Commissioner under the current mandate (clause 5, Schedule 3 and section 44 of the Act) is limited to the general and administrative functions of the Police Commissioner, and must not review the exercise of ‘constabulary’ functions (such as enforcement of the law in relation to individuals or groups).
33. In order to ensure consistency with the scope of the existing review mandate, we propose an additional consequential amendment to section 100 of the Policing Act to make clear that performance improvement reviews are limited in the same way. This amendment is supported by the New Zealand Police.

Potential to apply standards of integrity and conduct in contracts with third-party suppliers

34. In its submission, the PSA asserts that minimum standards of integrity and conduct (i.e. the public service code of conduct - ‘the code’) should be a condition of contracts for the delivery of public services, pointing out that many providers or their employees work with public servants or in agency premises and arguing that publicly funded contractors should have to meet the same standards as public servants. To achieve this, they propose the Bill be amended to give the Commissioner a power to direct this.
35. This issue has been discussed with MBIE’s Government Procurement team, and instances of providers undertaking activities in a way that could be perceived as politically motivated

have been the subject of public inquiries or requests for advice to the Commission in recent times, including in the *Inquiry into the protection of personal information* earlier this year.

36. While there is agreement that the code should apply where relevant, 'public services' is a broad concept, and there are many instances where doing so would not be useful or efficient (e.g. to place a political neutrality obligation on a contracted cleaner). In addition, while there is a general view that the code should apply in instances where the work outsourced would 'otherwise have been done by public servants', such a threshold is not certain enough to use in legislation.
37. This means that, at present, the Government procurement framework does not require compliance with the code as a default provision in model contracts. While Government Procurement maintains a Supplier Code which applies general ethical standards and expectations of adherence with the law, there is no statutory requirement on agencies to turn their mind to whether or to what extent the code should be applied via contract.

No proposed change

38. We have considered whether some kind of statutory requirement should be added to the Bill to strengthen consideration of this. Such a requirement could not be prescriptive and would need to take into account the particular context, but could potentially be enacted as an additional statutory duty on chief executives or agencies in complying with the minimum standards more generally.
39. However, we are mindful that this would need to be 'mechanised' in agencies with additional systems and processes, and could expose agencies to legal challenge on specific contracting decisions if not carefully drafted. We also do not have a good sense of what proportion of contracts require greater attention in this regard, so it is hard to assess the marginal administrative cost of such a change for agencies - MBIE has also raised these points with us. In addition, we think it is arguable whether such a change falls within your current mandate to make minor and technical amendments.
40. On balance, and given the above, we recommend that we should **not** propose a change to this effect in the Departmental Report. We recommend that we explore the potential for clearer direction to agencies on this issue, either through the Supplier Code itself, the Government Procurement Framework, or specific guidance issued by the Commissioner.

Next Steps

41. We are awaiting clarification from the Committee as to when they will hear oral submissions on the Bill, but expect to deliver the Departmental Report in early October, and will share that with you prior to lodging it.