



Report Title:	Public Service Amendment Bill – Minor and technical amendment to chief executive interview panels		
Report No:	MoSR 2025-0687		
Date:	18 September 2025		
To:	Hon Judith Collins KC, Minister for the Public Service		
Actions Sought:	Agree that officials should recommend the Public Service Amendment Bill be amended to more efficiently provide for an option of including existing public service chief executives on chief executive interview panels.	Due Date	26 September 2025
Contact	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 this report

1. This report seeks your agreement to a minor and technical amendment to the Public Service Amendment Bill (the Bill) to more efficiently provide for the option of including existing public service chief executives on chief executive interview panels. Should you agree with this, we would recommend this amendment to the Governance and Administration Select Committee in our Departmental Report on the Bill.
2. This report should be read in conjunction with *MoSR 2025-0686*, which provides our summary of submissions and a small number of other minor and technical amendments arising from those submissions – we have briefed you separately on this issue given its specific context.

Background

3. 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:

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

Context – chief executive appointment provisions

4. Schedule 7 of the Public Service Act 2020 sets out the requirements and processes for the appointment and performance review of public service chief executives. The general process for appointment includes:
 - the Commissioner notifying the vacancy and establishing a panel that examines applicants, seeks advice from relevant sources, and deliberates on which applicant is to be recommended for appointment; and
 - the Commissioner inviting the Minister for the Public Service and the portfolio Minister to identify any matters that the chairperson of the panel must take into account when deciding upon the person to be recommended for appointment.
5. The Bill is already making several amendments to other parts of the schedule:
 - removing provisions allowing chief executives to be recommended for re-appointment without advertising a vacancy or examining other applicants;
 - requiring the Commissioner to develop and publish (in consultation with the Minister) a framework for conducting performance reviews of chief executives;
 - codifying the practice of consulting the appropriate Minister when setting performance expectations or reviewing the performance of a chief executive.

Proposal – more efficiently including other chief executives on appointment panels

6. Following removal of the re-appointment provisions, the existing general process for appointment will be the only process the Commissioner can follow for most permanent appointments (there are a small number of processes which differ to reflect the specific nature of the role, for example, the process for appointing the Government Statistician reflects their unique statutory independence).
7. At present, Clause 3(4) of Schedule 7 provides that the panel established under this process must have the following members:
 - (a) the Commissioner or a Deputy Commissioner as chairperson;
 - (b) a Deputy Commissioner or an employee of the Commission; and
 - (c) one or more persons appointed by the Commissioner after consultation with the appropriate Minister.
8. The Bill already contains a technical amendment clarifying that the Commissioner can be the person included under (b) if they are not the chairperson.
9. Approaches to interview panels have evolved over time to be more flexible, provide a system-wide focus, and incorporate more external (e.g. stakeholder/customer) perspectives. As part of this, it has become frequent practice to include on the panel an existing public service chief executive who has valuable insight into the suitability of candidates for such roles.
10. These members often bring unique sectoral insights from previous roles or fresh perspectives on what it takes to be a chief executive in the context the appointee will be working in. In some circumstances this insight will be more appropriate than that of a second Commission employee, so greater flexibility to include them would

support an optimised and efficient panel. While the Commissioner “acts as the employer” of chief executives, they are not “employees” of the Commission.

11. However, at present, such members are effectively included under the general discretion in category (c) above, following consultation with the appropriate Minister. Given the possibility that a number of different people are appointed once the Commissioner has consulted the Minister, this means that a public service chief executive would be **additional** to these members, which can increase time and cost in the process and start to make the overall panel membership unwieldy.
12. We propose to resolve this issue and minimise the number of people required on an appropriate panel by adding the phrase ‘*or a public service chief executive*’ to category (b), as well as the existing minor and technical amendment. This would add flexibility, so that, where appropriate, the Commissioner could choose to include such a member instead of themselves, the Deputy Commissioner, or an employee of the Commission - though either the Commissioner or the Deputy Commissioner would still be required to sit on and chair the panel under category (a).
13. This change would ensure interview panels are optimised by creating more space for the experience and skills relevant to the role being considered without unnecessarily increasing panel numbers. It could be most easily progressed as a recommendation in our Departmental Report to the Committee on the Bill. If accepted, it would be picked up in the revision tracked version of the Bill recommended to the House.

Risks and mitigations

14. We are conscious that this proposal amends a part of the Act already proposed for amendment under the Bill, and that any changes to chief executive appointment provisions can be perceived as impacting on political neutrality.

15. 9(2)(g)(i) free and frank

[REDACTED]

16. This view is reflected in approximately 14 (15% of) individual and organisational submissions, including Hāpai Public (the Institute of Public Professionals Aotearoa New Zealand), the Public Service Association, and the New Zealand Law Society.

17. 9(2)(g)(i) free and frank

[REDACTED]

Responding to these concerns

18. We do not consider that the removal of the re-appointment provisions creates a threat to political neutrality because:

- while there has been a historical practice of re-appointment for a second, shorter term, this is not guaranteed and chief executive employment agreements are explicit that there is no expectation of re-appointment – we can demonstrate this practice has been used much less in recent years;
 - even where the re-appointment process has been used to date, and when appointing an acting chief executive, the Commissioner consults the relevant Minister before making a recommendation, so the processes are not substantially different in practice;
 - the most important factor in a Commissioner's choice to re-appoint an incumbent is the performance record of that person, which is assessed annually against a range of expectations and criteria and informed by 360 degree feedback, and this would be just as relevant in a contestable process as a non-contestable one; and
 - section 45 of the Act states that the Commissioner is not responsible to the Minister and must act independently when making decisions about individual chief executives (another minor and technical amendment you previously approved is intended to strengthen this section - *MoSR 2025-0486* refers).
19. Nor are we concerned that the proposal to more efficiently provide for other public service chief executives on interview panels would impact on political neutrality. For the reasons given above, we consider this change would simply provide the flexibility to ensure the best quality panels with the least number of people, and we would communicate all of these points to the Committee in putting forward this amendment.
20. 9(2)(g)(i) free and frank

Next steps

21. We expect to provide a draft of our departmental report to the Committee in early October and would also provide it to you for your information before then, so we seek your decision on this issue by 26 September. We are available to discuss this point with you at your convenience, if you wish.

Recommended Action

We recommend you:

- a) **Agree** that officials should recommend to the Governance and Administration Committee that the Public Service Amendment Bill be amended to more efficiently provide for the option of including 'existing public service chief executives' on chief executive interview panels, by adding this term to the list of possible members under clause 3(4)(b) of Schedule 7 to the Public Service Act 2020.

Agree/disagree

Hon Judith Collins KC
Minister for the Public Service