Report Title:	**Public Service Amendment Bill – Draft Departmental Report for Select Committee**		
Report No:	**MoSR 2025-0695**		
Date:	**9 October 2025**		
To:	**Hon Judith Collins KC, Minister for the Public Service**		
Action Sought:	**Note** the draft Departmental Report on the Public Service Amendment Bill	**Due Date**	**15 October 2025**
Contact Person:	**Stephanie Wyse, Acting Manager – Strategy, Policy and Integrity**		
Contact No:	9(2)(a) privacy		
Encl:	Yes - Draft Departmental Report – Public Service Amendment Bill	**Priority:**	High
Security Level:	**IN CONFIDENCE**		

Purpose

1. This report provides you with a draft of our Departmental Report for the Governance and Administration Committee (the Committee) on the Public Service Amendment Bill, consistent with the no-surprises convention.

Background

2. The Public Service Amendment Bill was introduced to Parliament on 28 July 2025 and received its first reading on 31 July 2025. On 18 September we provided you with an overview and summary of the key themes of written submissions and sought your approval to a range of further minor and technical amendments that we propose to recommend in the Departmental Report (MOSR 2025-0686 refers). We reported to you again on 6 October seeking revisions to those amendments related to long-term insights briefings (MoSR 2025-0702 refers).

3. A first round of oral submissions was heard on 8 October, and a second round will be heard on 15 October.

4. The Committee intend to consider the Departmental Report on 22 October and a revision-tracked version of the Bill and their commentary in November in order to meet their report back deadline to the House of Representatives of 1 December 2025.

Summary of the draft Departmental Report

5. As is standard practice, the draft report includes an overview of submissions, an analysis of key themes, a clause-by-clause analysis, any specific information requested by the Committee and recommendations from officials.

6. As previously briefed, key themes discussed in the report (Section Two) include:

   a. Emphasis on the long-term interest and serving current and successive governments;

b. Political neutrality and politicisation;

c. Facilitation of active citizenship and open government; and

d. Pay equity, diversity and inclusion provisions.

7. The draft report also includes analysis of submitters' comments relating to te Tiriti o Waitangi, international conventions and the New Zealand Bill of Rights Act 1990 (Section Three). The *clause-by-clause analysis* in Section Four provides responses to submitters' comments that relate to specific existing clauses or that propose further amendments to the Public Service Act.

8. Some of the detailed content or points of emphasis in these sections may change if oral submissions on 15 October raise new issues or the Committee requests further information. Cross-references remain highlighted to ensure accuracy in the final version.

Officials' recommendations to the Committee

9. We now intend to recommend six specific changes to the Bill in the Departmental Report. Specifically, the draft report recommends the Committee agree to amend the Bill so that:

- the Commissioner *must* set minimum standards of integrity and conduct in relation to the public service principles and values, but may also set them for other integrity matters;
- 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 'general and administrative' functions listed in section 16(1) of the Policing Act 2008;
- 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;
- the Department of Prime Minister and Cabinet (DPMC) is not required to consult publicly on the proposed subject matter of the long-term insights briefing (LTIB), but is still required to consult on the draft briefing itself;
- DPMC be required to provide the LTIB once in every three-year period beginning 1 June 2026, as opposed to beginning on the commencement date of this Bill; and
- public service chief executives are included on the list of people that could be included on an interview panel for the appointment of a chief executive.

10. These recommendations are discussed in more detail in the *clause-by-clause analysis*. We note that these recommendations are subject to the Parliamentary Counsel Office's advice concerning how they are best expressed in legislation.

Focus of oral submissions and likely Committee focus

11. We note that changes to the long-term insights briefing provisions were the main issue discussed during oral submissions on Wednesday 8 October. Of note, the Taxpayers' Union (one of the six parties who expressed support for the Bill overall) augmented their written submission by clarifying that they do not support the replacement of agency-

specific briefings with a single briefing prepared by DPMC. We expect this topic to be discussed again by the Committee during its consideration of the Departmental Report.

Next steps

12. We will brief you on any significant matters as they are raised through consideration of the Departmental Report. At this stage, we expect key topics focused on (in addition to the LTIB) to include diversity, equity and inclusion provisions, and the removal of the re-appointment provisions for chief executives.
13. Once the Committee has reported back, we will liaise with your office to ensure that you are appropriately supported through subsequent stages of the legislative process, if required.

Recommended Actions

We recommend that you:

a **note** the contents of this report and the attached Departmental Report on the Public Service Amendment Bill.

b **agree** that Te Kawa Mataaho Public Service Commission release this briefing, subject to any redactions, once the Select Committee has reported back on the Bill.

Agree/disagree.

Hon Judith Collins KC
Minister for the Public Service

Departmental Report for the Governance and Administration Committee

Public Service Amendment Bill

October 2025

Te Kawa Mataaho
Public Service Commission

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Section 1: Overview

1. This departmental report provides a summary of submissions on the Public Service Amendment Bill (the Bill) and corresponding analysis and recommendations from Te Kawa Mataaho Public Service Commission (the Commission).

2. The report is divided into the following sections:

   2.1. **Section 1: Overview** – provides an overview of the Bill, submissions received, information requested by the Committee and officials' specific recommendations for change.

   2.2. **Section 2: Summary of key themes in submissions** – provides officials' analysis of the key themes raised in submissions.

   2.3. **Section 3: Te Tiriti o Waitangi, international conventions and the New Zealand Bill of Rights Act 1990** – provides officials' analysis of submitters' comments relating to these subjects.

   2.4. **Section 4: Clause-by-clause analysis** of submitters' comments that relate to specific existing clauses or propose further specific amendments to the Public Service Act 2020 (the Act).

   2.5. **Appendix A:** List of submitters.

The Bill and its scope

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'.

4. The objectives of the Bill are to:

   4.1. drive improvements in public service performance;

   4.2. ensure that the public service can efficiently and effectively serve the government to deliver value for money for all New Zealanders; and

   4.3. create more stability by removing prescription and allowing individual governments more flexibility to express certain policy objectives using non-legislative levers.

5. It is considered that the Bill will have a clarifying and enabling effect on the operation of the public service. Consequential amendments will amend the Data and Statistics Act 2022 and the Civil Defence Emergency Management Act 2002.

Overview of submissions

6. The Governance and Administration Committee (the Committee) received 96 submissions (including supplementary submissions) from 93 individuals and organisations. X of these submitters presented oral submissions to the Committee. (Full list to be inserted by 15/10)

7. Sixty-nine individuals submitted on the Bill, including academics, ex-public servants and the Clerk of the House. Twenty-four organisations and groups submitted on the Bill including unions, a Crown agent and different non-government organisations (NGOs), including particularly detailed submissions from the New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (PSA), Hāpai Public Institute of Public Professionals Aotearoa New Zealand

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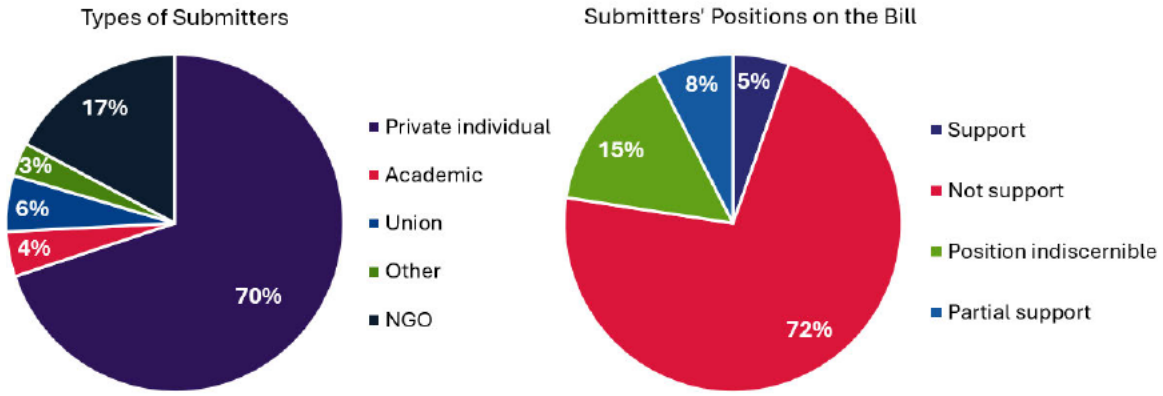
(Hāpai Public), the New Zealand Law Society (NZLS), Business New Zealand, and Te Kāhui Tika Tangata Human Rights Commission (HRC).

8. Of the 93 submitters, 67 submitters expressed opposition to the Bill and 5 were supportive of the Bill. 7 submitters expressed their partial support and 14 did not have a discernible position on the overall Bill.



9. The five submitters that supported the Bill included four individuals and the Taxpayers' Union. The Taxpayers' Union explicitly supported the proposed changes to the purpose statement [clause 10 of the Bill] and to the Commissioner's mandate to set minimum standards of integrity and conduct [clause 14 of the Bill]. They also supported the proposed changes to diversity, inclusion and pay equity references through the Act, suggesting that they currently "distract the public service from building organisations on the basis of merit".

10. Kent Stevens was similarly supportive of the Bill on the basis that it would "provide focus to the public service/remove distractions", and suggested the proposed changes will encourage the public service to "act in the public interest". Greg Mitchell was also of the view that the Bill has the potential to improve the current operation of the public sector, focusing their support on the proposed amendments to the chief executive appointment process [clause 46]. The remaining two individuals were not specific as to their reason/s for supporting the Bill.

11. While there was some limited consensus between supporting and opposing submissions about the high level objectives and ideas in the Bill (such as the public service principles, adherence with the law, and the upholding of constitutional and democratic government), the vast majority of comments in submissions expressed concern about at least one of the following key themes, which are discussed further in **Section 2**:

    11.1. emphasis on the long-term interest and serving current and successive governments;

    11.2. risks to political neutrality and politicisation;

    11.3. facilitation of active citizenship and open government; and

    11.4. changes to pay equity, diversity and inclusion provisions.

12. Other general and high-level feedback on the Bill is set out at the end of **Section 2**.

Specific information requested by Committee

13. Officials received three requests for further information from the Committee during the session on the Initial Briefing:

    13.1. *further analysis of the impact of removing the 're-appointment' provisions for public service*

chief executives from Schedule 7 of the Act [clause 46(6)] on the incentives for chief executives to adhere to the principles of political neutrality and free and frank advice – this is provided in paragraphs 56-59 of the thematic analysis as it was also raised by submitters;

13.2. *further analysis of the proposal to allow members of the Policy Advisory Group (PAG) in the Department of Prime Minister and Cabinet (DPMC) to be appointed on a fixed-term basis [clause 30] including the potential for secondments from existing agencies to meet this purpose* – this analysis is provided in paragraphs 66-68 of the thematic analysis as it was also raised by submitters; and

13.3. *analysis of the legal basis on which public service chief executives are appointed for a fixed-term, and whether any re-appointment under the current Act is considered a new term or a continuation of the existing* – the Commission considers that the Public Service Act 2020 prescribes the appointment of chief executives, including the length of term they may be appointed for, which overrides the Employment Relations Act 2000 to the extent there is any inconsistency. Where an incumbent chief executive is re-appointed, this is for a new term and does not extend their existing term. This is the case under the existing legislation and will remain the case if they are appointed for a further term following a contestable process after the proposed changes in the Bill.

14. We note that the Clerk of the Committee did not raise any issues of concern in their legislative scrutiny analysis.

Recommendations for specific changes to the Bill

15. Officials recommend the Committee consider the summary of submitters' evidence and the analysis provided in this report to inform its recommendation to the House.

16. Based on consideration of submissions and further analysis, we also recommend the Committee make six specific changes to the Bill. These are discussed further in the *clause-by-clause analysis* in **Section 4**. In summary, we recommend that the Committee agree to amend the Bill so that:

16.1. the Commissioner must set minimum standards of integrity and conduct in relation to the public service principles and values, but may also set them for other integrity matters - *see row 23 of the clause-by-clause analysis;*

16.2. 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 'general and administrative' functions listed in section 16(1) of the Policing Act 2008 - *see row 56 of the clause-by-clause analysis*;

16.3. 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 - *see row 58 of the clause-by-clause analysis;*

16.4. the Department of Prime Minister and Cabinet is not required to consult publicly on the proposed subject matter of the long-term insights briefing (but is still required to consult on the draft briefing) - *see row 65 of the clause-by-clause analysis*;

16.5. the Department of Prime Minister and Cabinet be required to provide the long-term

insights briefing once in every three-year period beginning 1 June 2026, as opposed to beginning on the commencement date of this Bill - *see row 69 of the clause-by-clause analysis*;

16.6. public service chief executives are included on the list of people that could be included on an interview panel for the appointment of a chief executive – *see row 76 of the clause-by-clause table*.

17. Recommendations on amendments to the Bill are subject to the Parliamentary Counsel Office's advice concerning how they are best expressed in legislation. The Parliamentary Counsel Office (PCO) may additionally recommend amendments to the Bill that are:

17.1. a consequence of implementing a recommendation;

17.2. necessary for the overall coherence of the legislation; and/or

17.3. required editorial changes.

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Section 2: Summary of key themes in submissions

18. This section collates and summarises the views of submitters by their main themes. Where practical, we have given a sense of the proportion of submitters who commented on these themes, but these figures are not mutually exclusive (i.e., some submitters expressed views on multiple themes and sub-themes), and numbers are approximate given that many submitters expressed their views at a high level only.

19. Generally speaking, this section discusses instances where submitters opposed or proposed the removal of whole or multiple clauses in the Bill for high-level reasons, while more specific questions about such clauses, or suggestions for amending them in particular ways, are dealt with in the *clause-by-clause analysis* (see **Section 4**). However, the *clause-by-clause analysis* still provides a sequential reference to **all** significant comments on individual clauses.

20. All submissions can be found at https://bills.parliament.nz.

Emphasis on the long-term interest and serving current and successive governments

Submitters' comments

21. Approximately 33 submitters (35%) addressed the question of how well the Bill provides for the public service to maintain a focus on or support the government to pursue the long-term public interest. These submissions focused on either or both:

    21.1. the proposals in clause 10 which would remove the phrases "supports the Government to pursue the long-term public interest" and "enables both the current Government and successive governments" from the current purpose statement for the public service [section 11 of the Act]; and

    21.2. the provisions in clause 45(2) to streamline long-term insights briefings (LTIBs) into a single briefing coordinated by the Department of Prime Minister and Cabinet (DPMC).

22. Comments in relation to enabling both 'current and successive governments' also raised concerns about the impact on political neutrality (discussed in the next theme).

23. The vast majority of submissions with a discernible view on these clauses opposed them (though one submitter supported the proposed purpose statement, subject to it being accompanied by an additional requirement on public service leaders to comply with the New Zealand Bill of Rights Act 1990).

Changes to the purpose statement

24. In general, the submitters who expressed concern about changes to the purpose statement under this theme argued for the 'signalling value' of the current statement, asserting that the new, proposed statement would disincentivise or reduce the 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) or inter-generational interests.

25. They felt this would lead to a shift towards short-term thinking and see the public service focused exclusively on the interests of the government of the day, rather than supporting government as an ongoing institution. Several submitters emphasised that the ability of the public service to focus on long-term interests is a 'constitutional' characteristic, and is necessary to maintain public trust and confidence in government.

26. While several submitters acknowledged the proposal for DPMC to issue guidance to agencies to

support long-term thinking and the capability of the public service to undertake this function [clause 45(10) of the Bill], several also stated that this guidance and the provision for LTIBs should not be considered a substitute for a clear mandate for long-term thinking in section 11 of the Act. Several argued that a reference in the purpose statement was necessary to incentivise agencies to maintain their capacity and capability for this purpose.

27. Both NZLS and Jonathan Boston felt that exclusion of a reference to the long-term interest in clause 10 was at odds with the fact that existing and proposed chief executive responsibilities [section 52 of the Act and clause 11 of the Bill] require them to support Ministers as a good steward of the public interest, while the PSA asserted the view that these responsibilities were too narrow to ensure a focus on the long-term needs of New Zealanders.

28. Submitters opposing the removal of "current Government and successive governments" (including Hāpai Public and NZLS) were concerned it would negatively impact public trust or undermine public service integrity, neutrality, transparency, and/or accountability.

29. Hāpai Public supports the removal of the phrase 'public interest' on the basis that it would make it clearer that elected politicians (not the public service) are the arbiters of the public interest, but seeks to retain a reference to the 'long-term'.

*Proposals for specific changes to the purpose statement proposed in clause 10 are discussed in rows 1-9 of the clause-by-clause analysis (**see Section 4**).*

Changes to long-term insights briefings

30. Generally, submissions on these proposals expressed concern that requiring DPMC to coordinate one single LTIB instead of all chief executives preparing agency-specific briefings would sacrifice a comprehensive perspective on emerging or long-term issues across different domains of government. Several submitters expressed the view that it was important such briefings apply different lenses, be independent, or not be monopolised by a central agency.

31. In a detailed submission, the Clerk of the House of Representatives noted that select committee consideration of LTIBs, and a specific review by the Governance and Administration Committee (2022), saw significant value in separate briefings. The Clerk noted they provided positive opportunities for members of Parliament and the public to engage with data and trends, and built agency capability to consider and engage with long-term issues. While they note the Committee called for a whole-of-government approach to LTIBs, and suggested there would be merit in a central agency coordinating the process more firmly, they also suggested that LTIBs to date demonstrate "the benefits of making all departments responsible for their own contributions, whether that responsibility is met separately or jointly".

32. The Clerk concludes by asserting that the changes in the Bill appear to reduce opportunities for parliamentary scrutiny of the Executive, and recommends that DPMC prepare an overarching briefing while individual agencies continue to prepare briefings on matters relevant to their functions, but with DPMC closely coordinating and supporting the process.

*Proposals for more specific changes to the LTIB provisions are discussed in rows 62-69 of the clause-by-clause analysis (**see Section 4**).*

Officials' comments

Providing for long-term interest and supporting current and successive governments in the purpose statement

33. We consider that ensuring a focus on the long-term interest and serving successive governments

(and the capability to deliver on these objectives within the public service) is not limited to any one specific legislative requirement. Rather, it requires a mix of clear requirements, supports, and scrutiny mechanisms. Under the Bill as proposed, the Act would still provide for these objectives in a range of ways, including:

33.1. the stewardship principle that chief executives must uphold under section 12 of the Act, which requires them to proactively promote stewardship of:

- the long-term capability of the public service and its people;
- its institutional knowledge and information; and
- its systems and processes.

33.2. the specific chief executive responsibility under new section 11A [clause 11 of the Bill] to support Ministers to act as a good steward of the public interest, including by:

- maintaining public institutions;
- maintain the currency of legislation administered; and
- providing advice on the long-term implications of policies.

33.3. the requirement for DPMC to provide guidance on long-term thinking [clause 45(10)]; and

33.4. the requirement for an ongoing, independent report that facilitates public and Parliamentary engagement in long-term issues (the LTIB provisions).

34. We consider that, collectively, these provisions comprehensively provide for a long-term focus and the ability to serve successive governments.

35. Similarly, the primary way that the public service ensures it can support both current and successive governments is by adhering to the principles of political neutrality and the provision of free and frank advice, which are already provided for in section 12. We also consider that where 'government' is used in the purpose statement, it will be interpreted inter-temporally–encompassing the concept of the 'government of the day' over time.

36. Both these approaches represent a more general point that, consistent with the Government's intention to streamline the purpose statement, this clause no longer includes concepts that are more effectively elaborated on later in the Act, often to explain how they apply in particular contexts. Given this, we do not consider the purpose clause is inconsistent with subsequent provisions merely because it does not duplicate their content.

Long-term insights briefings

37. We acknowledge the points made by submitters, including the Clerk of the House, about the value of agency-specific perspectives on long-term issues, and the role this can play in informing parliamentary scrutiny of the Executive. At the same time, we do not consider that requiring 34 separate, agency-specific briefings is likely to address the very real challenges of overlap and duplication evident in the first round of such briefings, nor is this consistent with the Government's policy intention for the Bill

38. In practice DPMC will coordinate across agencies to deliver a tightly focused briefing. We expect the LTIB will continue to play a role in supporting parliamentary scrutiny, and depending on its focus, will be drawn to the attention of relevant select committees.

39. As discussed above, we also note that the LTIB mechanism is just one of a range of legislative provisions intended to support long-term thinking in policy development and increase the capability of the public service to undertake long-term thinking as a core function of agencies.

40. In addition, we are conscious that DPMC conducted a review of the first round of LTIBs in 2023. This review recommended removing the requirement for two rounds of consultation from the Public Service Act. This has been identified as unnecessarily burdensome, adding time and cost into the LTIB process.

41. Consistent with the Government's policy intention to streamline LTIB requirements, we recommend that the Committee agree to remove the requirement for public consultation on the subject matter of an LTIB while retaining the requirement for consultation on the draft briefing. This recommendation is included in row 65 of the clause-by-clause analysis.

Political neutrality and politicisation

Submitters' comments

42. Approximately 25 submitters (27%) emphasised the importance of a politically neutral public service and/or raised concerns the Bill will undermine political neutrality or increase politicisation of the public service and/or its leaders, with a flow-on impact on integrity and public trust in government. Several associated this with what they perceived to be a 'centralising' effect across the proposals, while others emphasised the role political neutrality plays in the provision of free and frank advice, open government and consideration of the long-term interest.

43. Most submitters expressed these concerns about the Bill as a whole or as the cumulative impact of multiple clauses. In addition to those discussed in the long-term interest theme above, clauses most frequently referenced in this way included:

    43.1. those that would remove chief executive re-appointment provisions to ensure a contestable process each time a chief executive appointment ends [clause 46(6)],

    43.2. the requirement for a framework for chief executive performance, and the specific provision for the Commissioner to consult Ministers in the setting of performance expectations and when conducting performance reviews for chief executives [clause 46].

    43.3. those that aim to clarify chief executive responsibilities (e.g., to include implementing Ministers' lawful instructions and financial stewardship) – [clause 11];

    43.4. the proposal to allow the Commissioner to designate key positions in the public service, approve appointments to such positions and be consulted on the performance review of employees in these positions [clause 30]; and

    43.5. those allowing PAG members in DPMC to be appointed on a fixed-term basis [clause 32].

Changes to chief executive appointments and performance management [clause 46]

44. While 13 submitters signalled support for the principle of merit-based appointments and one supported clauses relating to chief executive performance management, nearly all of these challenged how the Bill intended to achieve that goal. Fifteen submitters expressed concern that removal of the chief executive re-appointment provisions would undermine or have a chilling effect on political neutrality or the principle of free and frank advice.

45. These submissions appeared to be based on a view that the contestable process that would remain in Schedule 7 clause 3 (with its more specific provision for Ministers to be consulted on the membership of appointment panels and to identify matters a panel must take into account when recommending appointments) makes it more difficult for incumbent chief executives to be re-appointed or provides Ministers a substantive or inappropriate role in appointments. As a result, they felt chief executives would be "incentivised to stay on side with Ministers" following

the changes, or be more sympathetic to the views of the government of the day to improve their chances of re-appointment. Others argued it would make chief executives more risk averse or short-term focused, or more likely to align decisions and actions towards the electoral cycle.

46. The NZLS argued that assessment of merit was inherent in any recommendation to re-appoint under the existing provisions, and that the current provisions are consistent with comparable jurisdictions, including the United Kingdom and Australia. Six submitters thought the Bill moved towards "American-style political appointments".

47. These submitters also expressed concern that a contestable process would discourage re-application more generally, or make positions less attractive, which they saw as a problem in a small 'talent pool' like New Zealand. They felt it would result in shorter tenures and higher turnover, short-term thinking, and a reduction in chief executives' domain-specific knowledge and understanding, while the PSA thought it could lead to a "quicker 'clear-out' of chief executives to make way for ones more sympathetic to the government of the day". Hāpai Public suggested that an 'ideal' length of tenure for a chief executive's was around seven years "in order to design and embed any organisational changes", while Jonathan Boston suggested higher recruitment costs for the Public Service Commission were likely as a consequence.

48. In terms of proposals for performance management, the PSA felt these provided more direct ministerial involvement in the setting of expectations and the review of performance, which would "increase the likelihood of ministers' personal views directly affecting what should be a more objective view of performance". Ewan Lincoln considered it appropriate for the Commissioner to seek input from the relevant Minister when reviewing performance, but did not think it appropriate for Ministers to be involved in setting performance indicators, as they felt this would lead to "indicators which are too narrowly focused on achieving the Minister's objectives, regardless of whether those are realistic or reasonable".

Changes to chief executive responsibilities [clause 11]

49. Submissions on these changes tended to debate whether the 2020 Act had de-emphasised chief executives' responsibility to implement the policies of the government of the day and make efficient use of taxpayer money. The Taxpayers' Union agreed with the Government's view, and supported the proposed changes, while the PSA and NZLS disagreed and felt these changes exacerbated the risks to political neutrality they saw in relation to changes to re-appointment. In particular, the PSA argued that:

    "having an eye to the future, identifying emerging trends, advising on the issues that might not be an immediate priority for the responsible minister but should be, and being able to respond to the needs of future governments aren't distractions from the work of public servants, they are the work of public servants".

50. In particular, the PSA and the New Zealand Nurses Organisation considered that the requirement for chief executives to "implement Ministers' lawful instructions" introduces a concept more common in employment relationships, thereby confusing lines of accountability between chief executives, the Commissioner, and Ministers, and providing an avenue for inappropriate political interference. Ewan Lincoln was also concerned about the inclusion of this clause, considering that the responsibility "should be mediated through the wider set of conventions about the relationship as set out in the Cabinet Manual".

Key positions [clause 30]

51. Five submitters commented on the proposal to allow the Commissioner to designate key positions in the public service and to approve appointments to these positions, with one

supporting these changes, and four opposing them.

52. Opposing submitters considered these provisions an unnecessary centralisation of power and an erosion of the autonomy of chief executives in employment matters, which they saw as an important safeguard against politicisation. Others felt it would complicate accountabilities by creating a situation where "the Commissioner will be responsible for holding chief executives accountable for their performance, but in a context where the Commissioner has been involved in the appointment of one or more key officials in that department". The PSA submission expressed little confidence that this provision would help build public sector performance, suggesting that it was an attempt to "politicise the hiring of key positions, and to drive particular models of organisational transformation".

Allowing fixed-term appointments to the Policy Advisory Group [clause 32]

53. Five submitters opposed this change on the basis that fixed-term appointments to the Policy Advisory Group (PAG) would politicise this cadre of public servants, with negative impacts on the contestability of advice across departments, and for free and frank advice overall.

54. Generally, submitters considered the policy rationale around the need to "rotate regularly" was weak, with rotation likely to undermine continuity, institutional memory and political neutrality, and increase recruitment and transaction costs. Jonathan Boston felt that, in combination with the removal of chief executive re-appointment provisions, this change could further increase the risks of partisanship (particularly given the stronger exemptions provided to PAG advice under the Official Information Act) and weaken advisory capability at the centre of government during changes of government or Prime Minister.

55. Several of these submitters emphasised alternative approaches to personnel management, such as the use of secondments from other departments and organisations, suggesting these were sufficient to bring in experts on a short-term basis (from inside or outside the public service). The PSA noted the value of creating opportunities for career progression by workers moving between agencies but expressed concern that these provisions would be used to prioritise the importing of private sector talent in certain roles.

*Proposals for more specific changes to the clauses discussed here are responded to in rows 11-17, 31-35 and 81-84 of the clause-by-clause analysis (**see Section 4**).*

Officials' comment

56. The principles of political neutrality and free and frank advice are provided for in section 12 of the Act, with chief executives responsible for upholding these principles when carrying out their functions and ensuring their agencies do so too. These principles are fundamental to the Act and would remain unchanged under the Bill as drafted.

Changes to chief executive appointment and performance management

57. While we have carefully considered the points made by submitters and questions asked by the Committee to date, we do not consider that the removal of re-appointment provisions for chief executives would create a risk to the political neutrality of chief executives. This is because:

    57.1. while there has been a historical practice of re-appointment for a second, shorter term, this is not in any way guaranteed and employment agreements are now explicit that there is no expectation of this – this practice has been used much less in recent years;

    57.2. even where the re-appointment process has been used to date, and when appointing an acting chief executive, there is an established practice of the Commissioner consulting

the relevant Minister before making a recommendation, so that the role of Ministers in this process is not substantially different from the contestable process that will remain;

57.3. the most important factor in a Commissioner's choice to re-appoint an incumbent is an objective assessment of the performance of that person, which is assessed annually against a range of expectations and criteria, and this would be just as relevant in a contestable process as a non-contestable one.

58. In addition, we note that section 45 of the Act explicitly states that the Commissioner is not responsible to the Minister and must act independently when making decisions about individual chief executives, but that at present, section 45(2) dis-applies such independence from whole clauses in Schedule 7. One of the amendments proposed in the Bill [clause 22] strengthens this provision by clarifying that this independence is not 'dis-applied', but is only subject to those parts of the schedule that require consultation with Ministers, and we consider that this further strengthens and clarifies that appointments are fundamentally independent decisions.

59. While we acknowledge the risk that re-application may be an inconvenience for some chief executives, we do not consider this such a strong disincentive that it would have a significant effect on tenures across the board. Nor do we consider it would create a significant lack of focus amongst chief executives as they approach the end of a term. We also note that the Commission has a practice of commencing appointment processes six months prior to the end of a term, which we consider goes some way to mitigate disruption. At any rate, we do not consider that these risks should outweigh the benefits of a contestable process.

60. In relation to performance management, we note it is already standard Commission practice to develop a framework for assessing chief executive performance and to seek feedback from the Minister for the Public Service when this is periodically refreshed.

61. It is also standard practice for the Commissioner to engage portfolio Ministers when setting expectations or reviewing a specific chief executive's performance. Chief executives are already accountable to Ministers for the delivery of their responsibilities, and seeking views from the Minister is a key part of assessing performance. The proposed requirement to have regard to these views only requires the Commissioner to turn their mind to them when forming their own, and any specific indicators in performance agreements are set at the discretion of the Commissioner. For these reasons, we consider the codification of these steps a valuable way to improve transparency and public trust in this process.

Changes to chief executive responsibilities, key positions, and fixed-term PAG appointments

62. As noted under the long-term interest theme, we do not consider that the revised set of primary responsibilities [clause 11] has significantly changed incentives on chief executives to 'have an eye to the future' or advise on issues that might not be an immediate priority for the government of the day.

63. In relation to arguments about Ministers' lawful instructions, we note that while this term may also be associated with employment relationships, chief executives have always been expected to implement a policy or operational decision by Ministers unless it is unlawful (such as if it related to a function that has been made statutorily independent of Ministers). Nothing in this clause changes the current accountabilities of chief executives to Ministers or the role of the Commissioner in acting as their employer in some respects. Nor do we consider that specifying this in the proposed section 11A changes or limits the application of the conventions set out in the Cabinet Manual governing the extent to which Ministers engage in operational matters.

64. Providing for the designation of key positions does not reflect a desire to centralise functions

but rather a need to ensure capability in key positions that have a widespread impact on public service performance. In some situations, a wider system or customer objective associated with a position (and the capability needed to respond to that) may not be obvious to an individual chief executive and a wider lens on appointing or assessing performance would be valuable.

65. We do not consider that this proposal would distort chief executive performance management, as such assessment is based on a range of expectations, including the delivery of priority outcomes and initiatives, external relationships, and organisational management, and chief executives are already expected to manage performance for organisations where they have not made every significant appointment themselves.

66. Finally, we note that appointments to PAG would still be made by the chief executive of DPMC in accordance with the provisions of the Act, so these appointments would need to be merit-based and appointees subject to the same statutory requirements (such as adherence to political neutrality) as other public service employees. While the change is intended to allow the more frequent rotation of people with expert knowledge of the policy priorities of successive governments, this does not amount to a politicisation of this group or create incentives for political appointments.

67. We note that while we have considered the potential for the use of secondments to achieve this objective, secondments can be limited by agencies' willingness to 'let go' of key staff and their capacity and capability to back-fill their position. We also note that such arrangements can create challenging environments where people still employed by a 'line' agency are asked to temporarily provide a central agency second opinion on colleagues' work.

68. While we acknowledge there is a trade-off between managing risk to continuity and risk of stagnation, we consider such issues can be managed on a case-by-case basis, in that the clause does not prevent the continued use of permanent appointments, specify the length of the fixed-term roles, or limit the possibility of re-appointment.

Pay equity, diversity and inclusion

69. Around 52 submitters (56%) commented on Bill proposals associated with pay equity, diversity inclusion. Most of these comments were in response to the proposed removal of:

    69.1. references to 'diversity and ensuring fair and equitable employment' from the subject matter of the Commissioner's general function to work with public service leaders in developing the public service workforce – existing section 44(c) of the Act – [clause 21 of the Bill];

    69.2. requirements in current sections 73(3)(i) and (j) of the Act for chief executives to have specific provisions in employment policies recognising the importance of pay equity and remuneration being free from bias – [clause 34 of the Bill];

    69.3. requirements in current section 75 of the Act for chief executives to be guided by the principle that the group comprising public service employees should reflect the makeup of society, and to foster a workplace that is inclusive of all groups – [clause 35 of the Bill];

    69.4. references to pay equity and workforce diversity and inclusiveness from the indicative list of matters that may (without limitation) be included in government workforce policy - existing section 97(2)(e) of the Act – [clause 39 of the Bill];

    69.5. references to public service agencies achieving workforce diversity and inclusiveness from the indicative list of matters that may (without limitation) be included in the Commissioner's three-yearly briefing on the state of the public service – existing Schedule

3 clause 16(4) of the Act – [clause 43(9) of the Bill]; and

69.6. references to diversity and inclusiveness from the requirements that a panel must have regard to when deliberating the appointment of an individual chief executive – existing Schedule 7 clause 3(7) of the Act – [clause 46 of the Bill].

Submitters' comments

70. Four submitters expressly supported these changes on the basis that they consider them consistent with the principle of merit-based appointments. The Taxpayers' Union commented that decisions on appointment, advancement and remuneration should be based solely on merit, and that "concepts of equity and inclusiveness should be already hardwired into the public service". Business New Zealand also commented that "ensuring that merit remains the primary principle helps sustain public confidence, fairness and the high regard in which public servants should be held". They are also of the view that clause 21 "does not mean ignoring diversity, rather it restores balance by encouraging agencies to foster inclusive practices."

71. However, 48 submitters expressed significant opposition or concern that some or all of these changes would have negative impacts on the public service and/or on the public.

Pay equity

72. Twenty submitters (around 21%) explicitly opposed the removal of the requirement for provisions in employment policies recognising the importance of pay equity and freedom from bias in remuneration. A number of these submitters suggested that these changes would reduce emphasis or have a negative signalling effect on the government's commitment to equal pay or pay equity claims. They suggested that removing these requirements would reduce necessary statutory safeguards against bias, exacerbate existing workforce challenges (around equity and retention), and signal a disregard for fairness and the contribution of specific workforce groups.

73. The New Zealand Nurses Organisation explicitly disagreed with the Minister's position that pay equity objectives are provided for explicitly or implicitly under other laws.

Diversity and inclusion

74. Forty-six submitters (including 15 organisations) explicitly opposed either some or all of the amendments that remove references to diversity and inclusion in the Act. Collectively, these submitters asserted that -

74.1. the changes would undermine the public service's commitment to diversity and inclusion and ongoing progress towards such objectives;

74.2. this would have a flow-on impact on the fairness and effectiveness of public services (based on the view that a public service reflective of the communities it serves can better understand their needs - groups mentioned by submitters included disabled people, Māori, Pasifika, women, transgender, non-binary and intersex communities and older people);

74.3. diversity and inclusion is consistent with the principle of merit-based appointments (in that it encourages drawing from the widest possible talent pool);

74.4. removing references to diversity and inclusion is inconsistent with the Crown's obligations under te Tiriti (discussed at paragraphs 112-115) and a number of international conventions (discussed at paragraphs 121-126), and would encourage racial discrimination;

74.5. other legislation is not sufficient to ensure diversity and inclusion is prioritised in

agencies; and that

74.6. all of these factors would have a flow-on impact on public trust, confidence, and participation in government.

75. The HRC also asserted that research consistently demonstrates that organisations with greater diversity achieve higher productivity and stronger performance outcomes.

76. The PSA argued that the removal of references to diversity and inclusion and pay equity from the indicative list of matters relating to government workforce policy appears to contradict the Government's stated intention that such matters would more appropriately be set and modified through Government policy.

*Proposals for specific changes to these clauses in the Bill are addressed in rows 27-29, 36-46, 52 and 77 of the clause-by-clause analysis (**see Section 4**).*

Officials' comment

Freedom from bias in remuneration and pay equity

77. We acknowledge the importance of equal pay and pay equity claim processes for the public service, and the wider New Zealand public. There is a clear requirement against gender-based discrimination (in terms of employment) in the Equal Pay Act 1972, and freedom from remuneration bias is also provided for, implicitly or explicitly, in the provisions of the Human Rights Act 1993, the New Zealand Bill of Rights Act 1990, the Employment Relations Act 2000, and under the expectations of fair and proper treatment and equal employment opportunities in section 73 of the Public Service Act 2020.

78. In relation to freedom from bias, we note that there has been a consistently positive trend in reducing the gender pay gap in the public service over the last decade, shown in Figure 1 below. There have also been generally positive trends in reducing ethnic pay gaps, shown in Figure 2.

Figure 1: Gender representation and pay gap in the Public Service

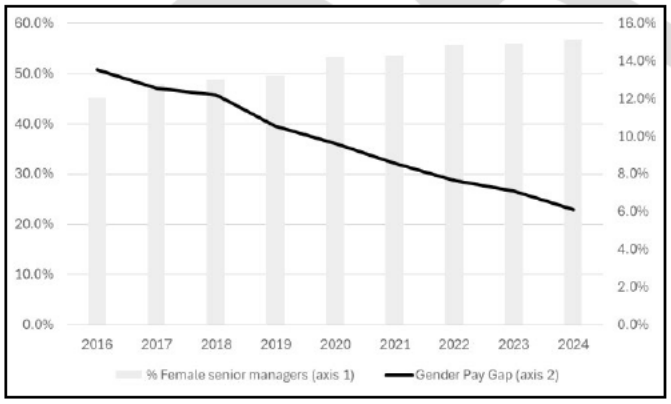
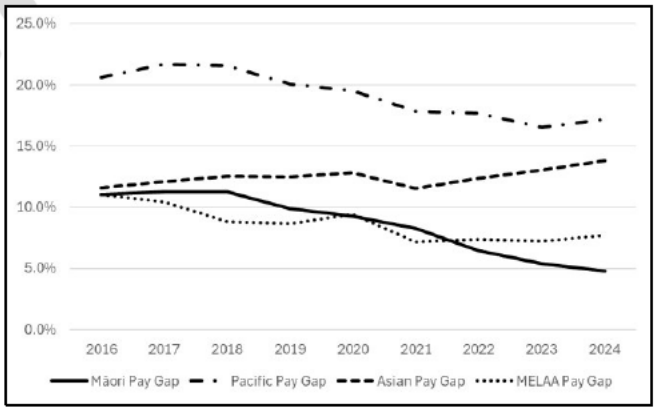


Figure 2: Ethnic pay gaps in the Public Service



79. Similarly, the processes for pay equity claims provided for in the Equal Pay Act 1972 continue to bind public sector employers, and sections 81-84 of the Public Service Act 2020 continue to demonstrate the public service's commitment to pay equity claims by providing for the Commissioner's responsibility for, and role in, pay equity claim processes.

80. Given these points, we consider that public service agencies understand and value these objectives, that adequate safeguards remain in place, and that the removal of sections 73(3)(i) and (j) is unlikely to have a significant signalling effect or impact on these objectives in a public service context.

Diversity and inclusion

81. We acknowledge the importance of a public service environment that values diversity and works to ensure people from all walks of life can contribute, feel valued, and demonstrate their merit in the workplace, and are conscious that submitters feel the removal of section 75 and associated sections would sacrifice a positive 'signalling' of this expectation.

82. At the same time, we consider these objectives are now strongly embedded in the culture and practice of the public service. In general, ethnic representation trends have been steadily positive over the last decade, shown in the below figures (Figure 3 and 4), with little significant or discernible change following the introduction of the Act. In instances where there is a discernible change (such as Māori representation in leadership (Figure 4), we consider this can be more readily attributed to the focus of diversity and inclusion work programmes undertaken by the Commission at the time.

Figure 3: Ethnic representation in the Public Service

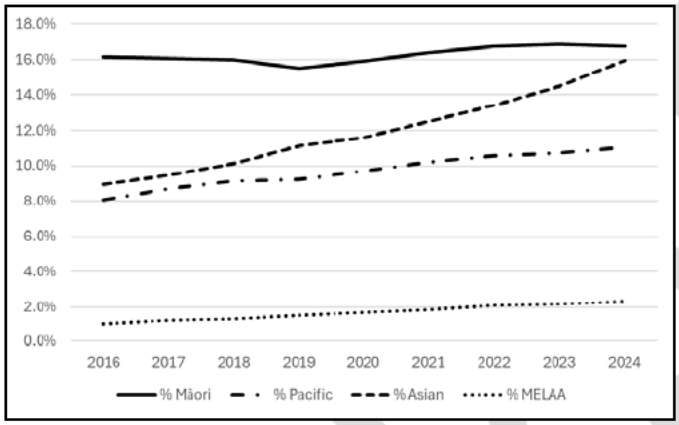
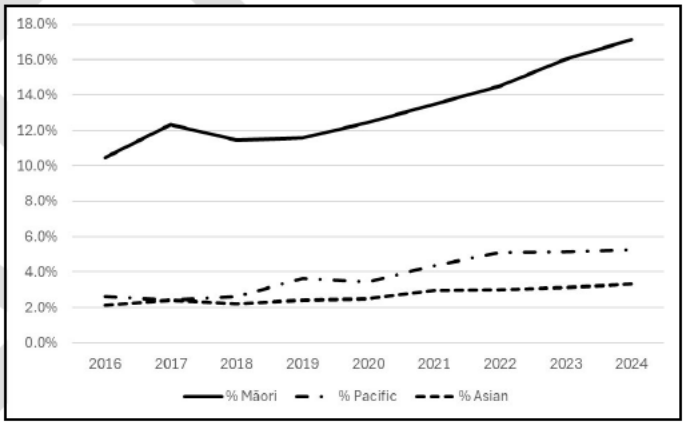


Figure 4: Ethnic representation in Public Service senior managers



83. As shown in Figure 1, the number of women in senior leadership continues to increase, moving closer to female representation in the Public Service overall (61.9% as at June 2024). In comparison, as at June 2024, 37.2% of the workforce were men. Information from the Public Service Census also showed that those of another gender, or multiple genders, made up 0.6% of the workforce in 2025.

84. We also accept the point that diversity and inclusion initiatives can be consistent with and reinforce the merit-based appointment principle (in that merit is not concentrated in any particular demographic). However, we think it is important to be clear about which type of initiatives maintain this consistency. For example, we are not aware of, and would not support, any initiative that deliberately weights a demographic feature of someone's identity in employment processes. In contrast, we consider that good practice recruitment and organisational processes will support and encourage initiatives that:

    84.1. look to attract the widest pool of capable applicants (such as by mitigating the risk of bias in recruitment processes and ensuring the workplace is an attractive environment for all those with the skills and competencies it needs to attract); and

    84.2. value and foster diversity of thought, culture and experience in the workplace, thereby ensuring everyone has an opportunity to demonstrate their merit.

85. While we appreciate there will be instances where an applicant's knowledge of or relationship with a specific community is likely to be key to their success in a role, such attributes can be

included in position descriptions and assessed as part of the merit of the applicant, but the selection process is still based on functional attributes, not the identity of the applicant per se.

86. However, we do not consider that the broad requirement in section 75(1) is clear as to this distinction, nor do we consider that this type of requirement is necessary or the best way to maintain progress towards a diverse workforce. We consider that chief executives and agencies will continue to be sufficiently directed, incentivised and accountable for this objective **and** the objective of an inclusive workforce by a mix of the remaining provisions in the Act, other legislation, government workforce policy, and guidance from the Commissioner.

87. In particular, the ongoing 'good employer' provisions in section 73 require an employment policy that provides for "the fair and proper treatment of employees in all aspects of their employment". This includes the impartial selection of suitably qualified people for appointment, safe working conditions, an equal employment opportunities programme, and recognition of the and employment requirements of Māori, ethnic and minority groups, women and people with disabilities. To our mind, these sections (in conjunction with wider provisions against discrimination in employment under the Human Rights Act 1993, New Zealand Bill of Rights Act 1990, and the Employment Relations Act 2000) will continue to provide a clear framework for diverse, inclusive workplaces and equal opportunities.

88. Specific diversity and inclusion initiatives can be best guided by government workforce policy, because it can more flexibly adapt to reflect emerging evidence and proven examples of good practice over time. In this context, we acknowledge submitters' concerns about the removal of references to pay equity and workforce diversity and inclusiveness from existing section 97(2)(e), but note that this is an indicative list of matters that may (without limitation) be included in government workforce policy. The removal of this text does not in any way constrain the government of the day from focusing on these issues in workforce policy.

89. With respect to comments about evidence of the relationship between diversity and organisational performance, we note that this is a highly diverse and contradictory field, and that the best meta-analyses we are aware of do not show a clear causal relationship between demographic diversity and performance. If anything, we consider that this body of evidence suggests diversity initiatives are unlikely to be successful if not accompanied by a focus on inclusiveness, and that there is little consensus on which types of initiatives are likely to be most successful. In this context, we consider that the balance of evidence supports the idea that such initiatives are best driven by workforce policy, rather than blunt legislative requirements.

90. Finally, in relation to the responsiveness of services to particular population groups, or groups with complex needs, we note that this is much more easily and reliably targeted via the choices made in the design and commissioning of services than by requirements about the composition of a workforce, and there remains no clear evidence that diversity in the public workforce impacts on people's satisfaction with, or trust in public services.

Facilitating active citizenship and open government

Submitters' comments

91. Fifteen submitters (16%) opposed or expressed concern about removal of the phrase "facilitating active citizenship" from the purpose statement [clause 10]. In general, submitters felt there would be a negative signalling effect of this change that would decrease civic participation and transparency and be detrimental to public service performance, trust and confidence in government. Some felt it would harm New Zealand's international reputation.

92. The PSA argued that facilitating active citizenship is a core role of the public service, growing trust in institutions and making communities more resilient, and felt New Zealanders increasingly expect to have a voice in and shape public services. Some submitters expressed concern that the change would be detrimental to the potential for co-design and tailoring of services to the needs of particular groups with unique or complex needs.

93. In addition, Trust Democracy proposed a statutory definition of open government as "a form of governance that promotes transparency, participation, and accountability by ensuring:

    93.1. the public has timely and effective access to official information;

    93.2. the public can participate meaningfully in the development and implementation of laws and policies; and

    93.3. Ministers and State services are answerable for their decisions, actions, and use of public resources".

Officials' comment

94. Transparency and public participation are fundamental to good government. At the same time, representative democracy in practice allows for the fact that many individual decisions need to be made by democratically elected governments without direct dialogue with the public. It is well established that the scale and nature of participation should be proportional to the significance of and risks associated with a decision, service or policy proposal. In addition, the extent to which decisions on particular issues should involve direct input from the public is ultimately a decision for the government of the day.

95. In this sense, and unlike the very high-level concepts that remain in the proposed purpose statement, active citizenship is not an absolute concept, but one where the practical application is context specific. A principles-based approach to such concepts is often most useful in legislation, and active citizenship will continue to be reflected in the public service principle of *open government* [section 12 of the Act] and the public service value of *responsiveness* [section 16 of the Act]. The Commission's guidance on the open government principle emphasises the role citizen participation plays in this and links to DPMC's Community Engagement Toolbox.

96. Similarly, we do not consider that a statutory definition of open government would materially change incentives on public servants. Guidance already states that at its core open government is about improving transparency, citizen participation and accountability, with an explicit reference to 'access to information', and the Official Information Act 1982 makes significant legislative provision for these objectives. Where needed, minimum standards in relation to the public service values and principles (which we propose to make mandatory as per submitter recommendations) are a more flexible way to set expectations of public servants and public service agencies. We also consider that the uptake of more innovative tools for democratic participation depends less on statutory provisions and more on the development and sharing of best practice and practical approaches across agencies.

97. For all of these reasons, we consider that the concepts of active citizenship and open government continue to be appropriately provided for in the Act.

Other general and high-level feedback

Submitters' comments

General feedback

98. Several submitters made high-level comments that were not clearly connected to the themes above or to specific changes in the Bill. Ideas expressed in these comments included concerns that the Bill would:

    98.1. weaken democratic governance or democratic systems, erode public trust in government or social cohesion, or otherwise undermine the "fabric of society";

    98.2. make employing good people in the public service harder, reduce cooperation across the public service, or otherwise undermine the viability of the public service;

    98.3. focus the public service too much on efficiency and not on the quality or effectiveness of public services, or create an imbalance between fiscal responsibility and social responsibility; and

    98.4. strip away or erode the rights of specific population groups, such as disabled people.

99. Some felt the Bill missed an opportunity to achieve other high-level objectives, including:

    99.1. establishing an outcome-led public service or focusing on 'measurable results', improving accountability for multi-agency work programmes, and ensuring the public service was future-focused;

    99.2. addressing wasteful use of public resources or assessing chief executives on what they have done to achieve efficiency.

Concerns about 'privatisation' of services

100. As discussed in row 59 of the clause-by-clause analysis, several submitters raised concerns about the proposal in clause 45(1) to amend the definition of contractor in the list of parties that chief executives may delegate functions to in Schedule 6 clause 2 of the Act. This was often presented as an extension of the delegation power. These submitters expressed concern that this amounted to a 'privatisation' of government, that it would confer undue benefits on the private sector, that it would disadvantage specific population groups, or that it would lead to improper delegations of coercive powers.

Policy rationale and process for the development of this Bill

101. Several submitters raised concerns about:

    101.1. a lack of public consultation during the policy development phase of the Bill (particularly in relation to diversity and inclusion or pay equity provisions), with Jonathon Boston suggesting changes to the Act should only be made with cross-party support;

    101.2. a lack of evidence, problem definition and/or sufficient policy rationale for the changes;

    101.3. the exemptions of many specific proposals from regulatory impact analysis.

Officials' comment

General feedback

102. It is not possible to respond to these comments comprehensively or in a specific way without understanding more about the individual submitters' perspectives, but at a high level, we do not consider that the Bill will undermine democratic governance in New Zealand or the viability

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of the public service. Nor do we consider that it impacts the public service's ability to advise on the quality or effectiveness of services or the choices made by governments of the day as part of their fiscal strategy and budget decisions.

103. We do not consider that there are any provisions in the Bill that strip away or erode the rights of specific population groups. As a general framework for the operation of the public service, the Act deliberately does not direct agencies or chief executives as to the targeting of services to such groups, which are choices made by the government of the day.

104. Nor do we consider legislative change is an appropriate or practical way to provide for specific outcome targets (often set by the government of the day) or to put in place accountability structures for specific work programmes, which need to be tailored to those programmes. Chief executive performance expectations can and often do focus on financial management, and separate budget and accountability mechanisms (such as those under the Public Finance Act 1989) exist to implement fiscal strategy and prevent unauthorised use of public money.

Concerns about 'privatisation' of services

105. The use of third party (private or community) providers in the delivery of public services is already authorised under the Act, and is an established feature of good government. In many cases, it is a way of ensuring the efficient or timely delivery of such services (particularly in times of surge or acute need) or improving the effectiveness of services (particularly where third-party providers are closer to target populations and have a better understanding of their needs and the delivery models that would suit best).

106. In this context, this clause is a clarification of the existing policy intention and practice. It responds to recent uncertainty created by case law which suggests the existing reference to a 'contractor' in Schedule 6 clause 2 may not be sufficient to cover instances of delegation to an individual deployed into a role in an agency under a labour-hire agreement where the agency has a contract with the labour-hire provider and the individual is an employee of the labour-hire provider (such as a call centre worker brought in to work in an agency during a period of surge activity). It does so by clarifying that the ability to delegate extends to the employee in this example, where the chief executive is the controlling third party within the meaning of the Employment Relations Act.

107. Both the chief executive and the delegate would still be expected to comply with minimum standards of integrity and conduct set by the Commissioner (as per Schedule 6 clause 2(9) of the Act), and we do not consider that this clarification gives rise to any of the risks suggested.

Policy rationale and process for the development of this Bill

108. The Government's policy rationale for the Bill is set out in a suite of publicly released Cabinet papers earlier this year. These papers, and the Public Service Commission's advice on the development of proposals are available at https://www.publicservice.govt.nz/publications.

109. The Government did not undertake public consultation during the policy development phase on the basis that the proposals relate to changes to the internal administrative or governance arrangements of the New Zealand government.

110. As required under regulatory impact assessment processes, the Commission engaged with the Ministry of Regulation on the requirement to undertake a regulatory impact statement for the proposals in this Bill. The Ministry for Regulation determined that the majority of proposals were exempt on the grounds that they have no or only minor economic, social or environmental impacts given the changes are to the internal administrative or governance arrangements of the New Zealand government.

Section 3: Te Tiriti o Waitangi, International Conventions, and New Zealand Bill of Rights Act 1990

Te Tiriti o Waitangi | Treaty of Waitangi (te Tiriti)

Submitters' comments

111. Eight submitters commented that the changes proposed in the Bill undermine te Tiriti, and/or impact the Crown's ability to meet its obligations under te Tiriti. Six of these submitters expressed views that this is a result of specific changes:

    111.1. **Long-term interest** – Te Rūnanga o Ngā Toa Āwhina indicated that for Māori, long-term interest includes intergenerational wellbeing, the protection of taonga and enduring partnership. They suggested that removal of long-term interest from the purpose statement will therefore undermine the public service's ability to uphold Māori aspirations and responsibilities.

    111.2. **Diversity and inclusion** – Several submitters (including HRC) argued that the removal of provisions related to diversity and inclusion are contradictory to te Tiriti and the Crown's obligation to positively promote equity under Article 3. Rights Aotearoa and Te Rūnanga o Ngā Toa Āwhina also suggested these changes will eliminate specific provisions for Māori participation and advancement in the public service.

    111.3. **Delegation power** – Te Rūnanga o Ngā Toa Āwhina also disagreed with the clarification of chief executives' delegation powers (including to contractors), suggesting that it will reduce accountability and transparency of services to Māori and further exclude Māori communities from decision making in outsourced services.

Officials' comment

112. We do not consider that the Bill is inconsistent with the principles of te Tiriti or constrains the Crown from meeting its obligations under te Tiriti. There is no change to existing section 14 of the Act, which provides for the Public Service to support the Crown in its relationships with Māori under te Tiriti by maintaining the capability to do so and applying the good employer provisions that relate specifically to Māori. As noted in the thematic analysis, we consider there to be a range of provisions that will continue to provide for long-term interests, and these provisions do not distinguish between Māori and non-Māori perspectives of this.

113. As noted in our analysis of diversity and inclusion proposals, a positive trend was maintained between 2016-2024 for Māori representation in the public service, representation in leadership, and the Māori pay gap, and we consider that policy initiatives aimed at these objectives were the driving force behind these gains. We also consider that chief executives will continue to be sufficiently directed, incentivised and accountable for ensuring a diverse, inclusive workforce and equal opportunities.

114. In addition, we note that the elements of the good employer provisions [section 73] that specifically relate to Māori are unchanged, requiring chief executives to recognise the aims and aspirations of Māori, the employment requirements of Māori and need for greater involvement of Māori in the public service.

115. As noted in rows 57-61 of the *clause-by-clause analysis*, the clarification of delegation powers in clause 45(1) is intended to support the status quo, where the Government often contracts third party (private or community) providers to deliver publicly funded services where this would

maximise the efficiency and effectiveness of such services. It is now common for the Crown to contract with iwi, hapū or pan-Māori entities for the provision of such services, and the amendment supports this practice, rather than constrains it.

Consistency with international conventions

Submitters' comments

116. Five submitters suggested that the Bill is inconsistent with various international conventions and declarations that New Zealand has either ratified or otherwise supports. The majority of their comments were in response to amendments relating to diversity, inclusion and/or pay equity, suggesting that these amendments (or their subsequent impact on different communities) would be inconsistent with those international obligations.

117. The HRC argued that the Bill is a "retrograde step in legislative protections to advance fundamental human rights". Rights Aotearoa commented on a similar list of conventions, expressing a view that these conventions create specific duties under international law, which "the Bill's provisions would violate". The conventions and declarations mentioned by these two groups, which are included in the table below at paragraph 126126, are aimed at protecting human rights, the rights of people with disabilities, the rights of women, the rights of indigenous people, and eliminating all forms of discrimination.

118. The HRC also argued that these amendments appear inconsistent with the International Covenant on Economic, Social and Cultural Rights[1], which under Article 2(1) provides that "state parties shall take steps, to the maximum available resources, with a view to achieving progressively the full realisation of the rights recognised in that Covenant". The covenant also limits any activity aimed at the removal or limitation of those aims.

119. The remaining three submissions (including from Parents of Vision Impaired NZ), commented more specifically on the inconsistency of these changes with the United Nations Convention of the Rights of Persons with Disabilities (UNCRPD)[2]. In particular, they commented that these changes are inconsistent with the Articles of the UNCRPD relating to participation, equity, inclusion, freedom of expression and independence (e.g., 3, 4, 19, 21, 29).

120. Parents of Vision Impaired NZ also suggested that the amendments in the Bill relating to the purpose statement, delegation powers, and the objective to ensure efficiency in the public service are similarly inconsistent with the UNCRPD.

Officials' comment

121. New Zealand has ratified or otherwise supports a number of international conventions and declarations relating to protecting or upholding the rights of individuals and certain groups of people within society, many of which create legally binding obligations. Importantly, the binding instruments provide flexibility for States to determine how to meet their obligations. States are not required to have specific legislation relating to a particular matter but are rather obliged to take appropriate measures to achieve the stated ends, which can include adopting appropriate legislative, administrative or other measures.

122. We do not consider the Bill (including the amendments relating to diversity, inclusion, pay equity, the purpose statement and delegation powers) is inconsistent with our relevant international obligations. Under the obligations mentioned by submitters, New Zealand is

[1] International Covenant on Economic, Social and Cultural Rights | OHCHR
[2] UN Convention on the Rights of Persons with Disabilities | OHCHR

broadly required to take appropriate measures to promote and ensure principles of equal pay and equality of opportunity and treatment, and to prevent discrimination. Those principles are already, and will continue to be, upheld by New Zealand legislation, including the remaining provisions of the Public Service Act, and administrative tools.

123. As discussed in the thematic analysis, the existing "good employer" provisions of the Public Service Act 2020 provide for safe working conditions, an equal employment opportunities programme, and recognition of the aims and aspirations and employment requirements of Māori and other specific demographic groups. Requirements for fair treatment of employees and protections against discrimination also exist in the Employment Relations Act 2000.

124. Gender-based discrimination in employment is prohibited under the Equal Pay Act 1972. Fundamental human rights, including freedom from discrimination, are protected by the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990. Relevant administrative tools include the New Zealand Disability Strategy 2016-2026, the Accessibility Charter, and programmes such as the social investment programme which seeks to support particular population groups and groups with complex needs.

125. In this context, the amendments in the Bill do not constitute the removal or limitation of rights protected by international instruments. Those rights continue to be protected and supported under the above existing measures. Further, we consider that the public service will continue to take positive steps to fully realise the rights protected by those instruments. It follows that the amendments are not retrogressive, but reflect the ability of states to determine how to meet their obligations under those instruments. In particular, as noted at paragraph 88, we consider that specific diversity and inclusion initiatives can be best guided by government workforce policy, which can more flexibly adapt to reflect emerging evidence and proven examples of good practice over time.

126. The following table lists the international conventions and declarations we have considered through the Bill process and in response to submitter comments, and existing legislative provisions that protect or support the relevant rights or objectives:

Convention/Declaration	Existing legislation and administrative tools upholding relevant rights raised by submitters
ILO Equal Remuneration Convention (No. 100)[3]	Equal Pay Act 1972 (s 2A), Public Service Act 2020 (ss 22 and 73(1) and (3)(c)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
ILO Convention concerning Discrimination in Respect of Employment and Occupation (No. 111)[4]	Equal Pay Act 1972 (s 2A), Public Service Act 2020 (ss 22 and 73(1) and (3)(c)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
UN International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)[5]	Public Service Act 2020 (ss 22 ,73(1), 73(3)(c), 73(3)(d), and 73(3)(f)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act

[3] International Labour Organisation - Equal Remuneration Convention, 1951 (No. 100)

[4] International Labour Organisation - Discrimination (Employment and Occupation) Convention, 1958 (No. 111) | OHCHR

[5] International Convention on the Elimination of All Forms of Racial Discrimination

	2000 (ss 4 and 102-105).
Universal Declaration of Human Rights[6]	Equal Pay Act 1972 (s 2A), Public Service Act 2020 (ss 22 and 73(1) and (3)(c)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)[7]	Equal Pay Act 1972 (s 2A), Public Service Act 2020 (ss 22, 73(1), 73(3)(c), and 73(3)(g)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
UN Convention on the Rights of Persons with Disabilities (UNCRPD)	Public Service Act 2020 (ss 22, 73(1), 73(3)(c), and 73(3)(h)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
UN International Covenant on Civil and Political Rights[8]	Equal Pay Act 1972 (s 2A), Public Service Act 2020 (ss 22 and 73(1) and (3)(c)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
UN International Covenant on Economic, Social and Cultural Rights	Equal Pay Act 1972 (s 2A), Public Service Act 2020 (ss 22 and 73(1) and (3)(c)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
The Yogyakarta Principles[9]/The Yogyakarta Principles plus 10	Public Service Act 2020 (ss 22 and 73(1) and (3)(c)), Human Rights Act 1993 (ss 22 and 23), New Zealand Bill of Rights Act 1990 (s 19), and the Employment Relations Act 2000 (ss 4 and 102-105).
UN Declaration on the Rights of Indigenous People[10]	The rights of Māori are recognised and supported in many ways in New Zealand (through te Tiriti, and other legislative and non-legislative measures). Under the Public Service Act, ss 14 and 73(3)(d) are particularly relevant.

New Zealand Bill of Rights Act 1990 (NZBORA)

Submitter comment

127. Aligned with submitters' comments relating to human rights, the Free Speech Union also made specific comments on the New Zealand Bill of Rights Act 1990 (NZBORA). They commended the

[6] Universal Declaration of Human Rights
[7] Convention on the Elimination of All Forms of Discrimination against Women
[8] International Covenant on Civil and Political Rights
[9] The Yogyakarta Principles and the Yogyakarta Principles plus 10
[10] UN Declaration on the Rights of Indigenous Peoples

bill's "intent to strengthen the public service principles, especially political neutrality", though suggested that there be specific reference to the NZBORA to "counteract emerging threats to those rights" and to New Zealand's democratic system.

*Proposals for related changes to specific clauses are also responded to in rows 16, 21 and 24 of the clause-by-clause analysis (**see Section 4**).*

Officials' comment

128. We agree with this submitter's view that it is important for the Bill to be consistent with the rights and freedoms affirmed by the NZBORA. As per standard process, the Bill's consistency with the NZBORA was assessed by the Ministry of Justice and subsequent advice was provided from the Ministry to the acting Attorney-General. They concluded that the Bill appears to be consistent with the rights and freedoms affirmed by the NZBORA. In particular, they assessed its consistency against sections 17 (freedom of association), 14 (freedom of expression) and 19 (freedom from discrimination) of the Act. Their full analysis is available at https://www.justice.govt.nz.

129. We note that the Legislation Design and Advisory Committee Guidelines (at paragraph 3.3) state "where a provision in existing legislation satisfactorily addresses an issue, it is preferable not to repeat that provision in legislation. This kind of duplication often results in unintended differences, especially where legislation is amended over time or where legislation is intended to address a different policy objective". The NZBORA binds the Crown, and the Public Service Act will continue to require public servants to act in accordance with the law. Therefore we do not consider it necessary to explicitly reference the NZBORA in this Act.

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Section 4: Clause-by-clause analysis

Specific comments on existing clauses or additional content proposed

130. The table below collates officials' comments on submitters' concerns or suggestions where they relate to specific clause/s of the Bill. Rows greyed indicate where submitters have suggestions that would require additional clauses in the Bill. Rows coloured highlight officials' recommendations to amend the Bill.

Row	Clause	Submitters' suggestion	Officials' comment
Purpose of the public service *Clause 10 proposes to focus the purpose statement for the Public Service to six key areas, resulting in the removal of reference to 'long-term public interest', 'current and successive governments' and 'active citizenship'.*			
1	10	Six individuals, the New Zealand Nurses Organisation (NZNO), Hāpai Public Institute of Public Professionals Aotearoa New Zealand (Hāpai Public), the New Zealand Law Society (NZLS), New Zealand Public Service Association Te Pukenga Here Tikanga Mahi (PSA) and the National Delegate Team at the Department of Conservation PSA suggested retaining reference to *pursuing long-term public interest* or including a different reference to long-term thinking – to ensure this is still a focus for the public service.	**As discussed in paragraphs 33-36 of the thematic analysis,** the Act contains a package of provisions which we think comprehensively provide for a long-term focus, and we do not consider duplicating this in the purpose statement is necessary. The primary way that the public service ensures it can support both current and successive governments is by adhering to the principle of political neutrality, which is already provided for in s 12. We also think that the term government is inter-temporal in this context – encompassing the concept of governments of the day over time.
2	10	Barbara Allen, the NZNO, Hāpai Public, NZLS and the PSA suggested retaining reference to *enabling current Government and successive governments* – to ensure this is still a focus for the public service.	
3	10	The PSA also suggested that the Bill could have provided other ways to enhance stewardship and long-term decision-making to ensure the public service is more effectively pursuing the long-term interest and serving the interests of future generations.	
4	10	Three individuals, the NZ Council of Christian Social Services (NZCCSS), the NZNO and the PSA suggested retaining the reference to *facilitating active citizenship* – to ensure this is still a focus for the public service.	**As discussed in paragraphs 94-97 of the thematic analysis,** representative democracy allows for the practical fact that many individual decisions need to be made by democratically elected governments without direct dialogue with the public. It is well established that the scale and nature of participation should be proportional to the

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			significance and risks associated with a decision, and the extent to which decisions should involve direct input from the public is ultimately a decision for the government of the day. In this context, we consider a principles-based approach most appropriate, and we consider active citizenship is adequately reflected in the public service principle of *open government* [s 12] and the public service value of *responsiveness* [s 16]. The Commission's guidance on the principles emphasises the role that citizen participation plays in open government and links to DPMC' s Community Engagement Toolbox.
5	10	Jonathan Boston suggested retaining the purpose statement and if not, to rewrite the proposed purpose statement as a single statement, rather than in two sub-sections.	We consider that a provision structured as a single sentence would have no different legal effect. The proposed structure is only being used to emphasise that the purpose contemplates both day-to-day functions and enduring principles/concepts.
6	10	Te Rūnanga o Ngā Toa Āwhina also suggested retaining the current purpose statement, with additional clear commitment to te Tiriti and Māori-led solutions, to prevent narrowing the scope of the public service to short-term political interests, and undermining obligations under te Tiriti.	There is already a provision in the Act that outlines the role of the public service to support the Crown in its relationships with Māori under Te Tiriti [s 14]. The Government does not propose to change these provisions, and we do not consider that duplicating this in the purpose statement is necessary.
7	10	NZLS suggested including in the purpose statement an express requirement for the public service to remain politically neutral when carrying out its functions.	A requirement for the public service to be politically neutral is already explicitly provided for in s 12(1) of the Act. We do not consider that duplicating this in the purpose statement is necessary. The public service principles are set out in statute to support the public service to achieve its purpose.
8	10	The Breast Cancer Foundation suggested alternative wording so that the purpose is focused on enduring outcomes for people - "to improve outcomes for New Zealanders by ensuring the public service is people-centred, outcomes-led, equity-driven, system-focused and future-ready".	The wording here describes features of a high-performing public service that supports constitutional and democratic government. We consider that elements of these statements are already provided for in the proposed purpose statement (e.g., in phrases such as 'meet the needs of New Zealanders'), while others, such as future readiness (a long-term focus) or system focus are provided for elsewhere in the Act.
9	10 & 13	The PSA also suggested that 'spirit of service to the community' be included as a separate subclause under s 11 (the purpose statement) in order for it to "have the status and clarity it deserves".	We have proposed shifting this concept to the purpose statement [cl 10] to recognise its status as an enduring characteristic of the public service alongside supporting constitutional and democratic government and acting in accordance with the law. Separating it in a sub-section is likely to reinstate the current lack of clarity about status and effect that arises from its location in a separate whole section [s 13] of the Act.
10		The Breast Cancer Foundation also suggested that the Bill reinstate strong stewardship duties as "agencies must plan long-term, enable new and future developments and ensure resilience".	The Bill as drafted does not remove stewardship responsibilities across the public service. As above, we also consider that the Act contains a package of provisions which adequately provide for a long-term focus.

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Principal responsibilities of chief executives of departments and departmental agencies *Clause 11 clarifies the responsibilities of public service chief executives, and moves them higher in the Act as they are a key mechanism to give effect to the purpose.*			
11	11	The NZNO suggested amending the clause to retain current chief executive responsibility to "improve ways of working across public service agencies". They are concerned that siloed approaches have impeded the public service from achieving greater social and economic development.	Public service chief executives provided feedback during the policy process that 'ways of working' was too vague, and helped to evolve this wording to what is now proposed in 11A(1)(g) "working to improve inter-operability, coordination, and collaboration across public service agencies". We consider that this provides a more comprehensive description of 'ways of working' and better responds to the idea of limiting siloed approaches.
12	11	Janet McLean suggested that the responsibility in this clause *to build and maintain a financially literate workforce* is too prescriptive and could be achieved non-legislatively, while the NZNO suggested it be removed, questioning if this "is the only focus public servants should have?"	This phrase is part of a wider responsibility for chief executives in relation to the financial stewardship of their agency, and a wider set of primary responsibilities proposed in cl 11, and does not have any greater weight than the others. The Government considers that a financially literate workforce is essential to a high-performing public service, and we consider this consistent with a financial stewardship obligation, which is fundamental to the role of a chief executive.
13	11	The NZNO suggested that removing the responsibility for *implementing lawful instructions* as it is "a threat to the public sector independence that is fundamental to democratic institutions". The PSA also suggested recommending this from clause 11 as it "confuses the line of accountability between chief executives, their employer, and the minister(s) they report to".	As discussed at paragraph 63, while the term *lawful instruction* may be associated with employment relationships, chief executives have always been expected to implement a policy or operational decision by Ministers unless it is unlawful (such as if it related to a function that has been made statutorily independent of Ministers). Nothing in this clause changes the current accountabilities of chief executives to Ministers or the role of the Commissioner in acting as their employer in some respects.
14	11	Ewan Lincoln suggested that the responsibility for *implementing lawful instructions* should be mediated through the wider set of conventions about the relationship as set out in the Cabinet Manual.	The Cabinet Manual provides the primary set of guidelines adopted by each administration as the guide to central government decision-making. We do not consider that this amendment changes or limits the application of the conventions set out in the Cabinet Manual. We also do not consider it necessary or appropriate for those conventions to be specified in the Act.
15	11	Johanna Warren, the National Delegate Team at Department of Conservation PSA, and the PSA suggested including a responsibility to maintain and grow capacity in relation to agency's responsibilities, including through research and development and building social licence for its work.	We consider that this wording describes some of the ways for chief executives to ensure their agency (and workforce) can best perform its functions. We consider this is implicit in the responsibilities set out in proposed ss 11A(1)(c), (d), (e) and (j).
16	11	The Free Speech Union suggested including a responsibility for "ensuring compliance with New Zealand Bill of Rights Act 1990 (NZBORA)" – in order to counteract emerging threats to peoples' rights and ensure the public service acts consistently	We note that the Legislation Design and Advisory Committee Guidelines (at paragraph 3.3) state "where a provision in existing legislation satisfactorily addresses an issue, it is preferable not to repeat that provision in legislation. This kind of duplication often results in unintended differences, especially where legislation is amended over time or where

		with NZBORA ("a key feature of sustaining our democracy").	legislation is intended to address a different policy objective". The NZBORA binds the Crown, and the Act will continue to require public servants to "act in accordance with the law". We therefore do not consider it necessary to duplicate this in the responsibilities of chief executives.
17	11 & 27	Andrew Jackson commented that the changes would remove specific responsibility of chief executives to provide advice on long-term implications of policies.	This responsibility is not being removed through these amendments (see new s 11A(1)(j) – in cl 11).
Public Service principles *These suggestions relate to the existing section 12 of the Act relating to the public service principles.*			
18		Trust Democracy suggested strengthening the principles by including into the interpretation section of the Act a definition of *open government* that anchors the principle in access to information, public participation and accountability.	**As discussed in paragraphs 94-97 of the thematic analysis,** *open government* is already a public service principle addressed in the Act. Guidance already states that at its core open government is about improving transparency, citizen participation and accountability, including an explicit reference to 'access to information'. The amendment we have proposed below at row 23 will help to define all of the principles (including open government) and better 'anchor' the principles in public service practice. We do not consider it appropriate or necessary for it to also be defined elsewhere in the Act.
19		NZNO and the PSA suggested there be a new *engagement* principle added to s 12, meaning to engage with and facilitate the participation of citizens and civil society and service design.	We consider that this definition of engagement is an implicit element of the *open government* principle discussed above, and is reflected and recognised in the Commission's guidance and under international policy frameworks. This guidance explicitly emphasises the role that citizen participation plays in this and links to DPMC' s Community Engagement Toolbox.
20		The PSA also suggested that s 12 include an additional section describing the responsibility of Ministers to preserve public trust and confidence in the public service by supporting the public service to uphold its principles.	The Act focuses on the purpose, role and functions of the public service, its leaders and its workforce. It is not the appropriate mechanism to outline the conduct of Ministers to maintain public trust and confidence. This is more appropriately addressed in the Cabinet Manual.
21		Free Speech Union suggested amending s 12(2) of the Act to include that chief executives be responsible for ensuring processes for speaking out and protected disclosures comply with the minimum standards set out by the 'Speaking out' guidelines. Free Speech Union also strengthening 'speaking out' mechanisms by: - Expanding the scope of grounds for protected disclosures	The Protected Disclosures Act 2022 provides a specific legislative framework for reporting serious wrongdoing in the workplace, including an act, omission or conduct that is unlawful, corrupt or an irregular use of public funds or resources, or, where a public sector agency is concerned, is oppressive, unlawfully discriminatory or grossly negligent, or which is gross mismanagement. The appropriate authorities that receive a protected disclosure include people outside internal organisational reporting lines, such as the heads of public sector organisations or officers of Parliament. The Commission also supports this framework by issuing model

		(to include breaches of the Public Service Act 2020 and rights enshrined by NZBORA) – to "strengthen procedures of natural justice and the natural rights of individual public servants within the system". - Strengthening the protected disclosures channel by providing an independent mechanism for public servants to report breaches of the Public Service Act 2020 (external of internal reporting lines) to ensure public servants can voice concerns without fear of reprisal.	standards for speaking up, which we have recently updated. For these reasons, we consider the current provision for protected disclosures by public servants are adequately provided for, and changes to that Act are outside the policy intention for the Bill. The NZBORA binds the Crown, and the Act will continue to require public servants to act in accordance with the law, so we do not consider it necessary to reference the NZBORA in this Act.
Spirit of service to the community *The Bill proposes to shift reference to the spirit of service (from existing section 13) to the purpose statement.*			
22	13	Two individuals specifically suggested removing this clause to retain the current provisions regarding spirit of service.	We have proposed shifting this concept to the purpose statement [cl 10] to recognise its status as an enduring characteristic of the public service alongside supporting constitutional and democratic government and acting in accordance with the law. Leaving it in a separate section would maintain the current lack of clarity about its status and effect.
Commissioner may set minimum standards of integrity and conduct and issue guidance on integrity and conduct *These amendments make it mandatory for the Commissioner to set such standards, specify that they may relate to the public service principles and values, and clarify the agencies the Commissioner may issue guidance to.*			
23	14	Trust Democracy suggested it be mandatory for minimum standards to relate to public service principles and values (rather than 'may') on the basis that they partly define the Act's desired outcomes and there is evidence that many public servants do not understand them.	We agree that the mandatory, minimum standards anticipated by the current clause should include standards relating to the principles and values, but are also conscious that there are other integrity matters not directly related to the principles or values that the Commissioner may need to provide standards for in order to maintain public trust and confidence in government. As such, **we recommend the Committee agree 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 other minimum standards of integrity and conduct.**
24	14(2)	Free Speech Union suggested that the matters minimum standards could relate to should include, as the new 1A(c) "the New Zealand Bill of Rights Act".	As above, the NZBORA binds the Crown, and the Act will continue to require public servants to act in accordance with the law, so we do not consider it necessary to reference the NZBORA in this Act.
25	14 & 15	The PSA suggested that the Commissioner should have the discretion to require an agency to include as a condition of any contract for services that agency enters into that the people	While we agree that the minimum standards (e.g., the public service code of conduct) will be relevant in some cases, 'services' is a broad concept, and there are many instances where applying the code via contract to a third-party provider would not be useful or efficient (e.g.,

		engaged in the work of that contract must comply with minimum standards of integrity and conduct set by the Commissioner.	to place a political neutrality obligation on a contracted cleaner). For this reason, the public service code of conduct is not applied to third parties in contract by default. Broad standards of integrity and conduct are applied to providers via a 'supplier code of conduct', and government procurement guidance notes that this may not be sufficient in all instances and recommends agencies seek advice from the Commission when considering more complex contracts. In addition, any contracted party who is delegated functions from chief executives is required to comply with all relevant minimum standards under Sch 6 cl 2(9). While we acknowledge the perspective that the code could be applied 'wherever the work would otherwise have been done by public servants', such a threshold does not reflect the effectiveness and efficiency considerations that drive outsourcing choices or the matters that need to be weighed in deciding whether to apply the code. Such choices need to be made by chief executives in the particular context. For these reasons, we do not consider a new power for the Commissioner or blanket legislative requirement would be appropriate. However, we will work with the Government Procurement Team to provide clearer direction on this issue in either the supplier code, the Government Procurement Framework, or specific guidance by the Commissioner.
26	15	Trust Democracy suggests this clause broadens the range of application for minimum standards set by the Commissioner, will centralise power and constrain agencies from setting their own standards.	This clause provides a minor extension to who the Commissioner can issue **guidance** to so that it aligns with the agencies the Commissioner can already provide advice to "on matters that affect the integrity and conduct of individuals" – see s 17(7). This is because there may be value in providing guidance to entities or public sector employees on some issues, even though they are deliberately **not** bound by minimum standards. This restores the nature of the mandate that existed in the State Sector Act 1988, which was unintentionally separated in the 2020 drafting. The amendment does **not** 'broaden the range of public sector organisations that the minimum standards apply to', nor does it constrain agencies or professions from setting their own standards or issuing their own guidance. It also does not mean that all guidance issued by the Commissioner must or would be issued to all agencies in the State services.
Commissioner's functions *Clause 21 removes the requirement for the Commissioner to work with public service chief executives to develop a workforce that reflects the diversity of the society it serves and to ensure fair and equitable employment.*			
27	21	The NZNO, Te Uru Tangata Centre for Workplace Inclusion, the PSA and Rights Aotearoa specifically suggested removing this	This section of the Act sets out the high-level functions of the Commissioner in relation to the public service, and currently reflects the obligations to promote diversity and inclusion

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		clause to retain reference to the workforce "that reflects the diversity of the society it serves and to ensure fair and equitable employment".	in s 75 of the Act. As discussed in **paragraphs 81-90 of the thematic analysis**, we do not consider that the broad requirement in s 75(1) is necessary or the best way to maintain progress towards a diverse workforce. Rather, we consider that chief executives and agencies will continue to be sufficiently directed, incentivised and accountable for such objectives through a mix of the remaining provisions in the Act, other legislation, government workforce policy, and guidance from the Commissioner. We also consider that the concept of fair and equitable employment is sufficiently covered by the good employer requirements in s 73 of the Act, which will continue to be referenced in this section.
28	21	The NZNO also suggested retaining s 44(c) as an obligation to "foster workplace cultures of respect, dignity, inclusiveness and active participation is essential to good public service".	Section 44(c) of the Act does not currently include this language. Consistent with the view we held on the Public Service Legislation Bill in 2020, we consider that concepts of respect, dignity and inclusiveness can be provided for by a combination of the requirements in s 73, guidance and standards under the Act, and in Government Workforce Policy Statements. **As discussed in paragraphs 94-97 of the thematic analysis,** we also consider that active citizenship will continue to be reflected in the Act, including in the public service principle of *open government* [s 12] and the public service value of *responsiveness* [s 16].
29	21	Rights Aotearoa suggested that this clause removes "the systemic leadership for diversity across the entire public service, creating an accountability vacuum", and that the Commissioner's coordination role therefore be preserved.	We consider that system leadership will continue to be provided by a combination of the remaining provisions of the Act, government workforce policy, and Commission guidance. The Commissioner will still have a leadership role under this section in relation to the good employer requirements, which we consider will continue to provide for a diverse and inclusive workforce.
Deputy Public Service Commissioners *Clause 23 amends the number of Deputy Public Service Commissioners from two to one.*			
30	23	Two individuals suggested that this clause be removed to retain two Deputy Public Service Commissioners as the reduction would impact the neutrality of the Public Service Commission and "reduce oversight while expanding powers".	Under the State Sector Act 1988, there was provision for the appointment of only one Deputy Public Service Commissioner, but the Public Service Act 2020 increased it to two, reflecting a view at the time that the scope of the Commissioner's role had expanded. The core purpose of a statutory deputy is to cover the Commissioner if they are incapacitated (ensuring continuity of leadership). Other key features of the Commissioner's role (such as assessing and driving agency performance) can be supported by non-statutory deputy chief executives. For these reasons, we consider one statutory deputy is sufficient. The amendment therefore represents a return to the pre-2020 position and aligns with the Government's move to 'right size' Public Service leadership and spans of control. As mentioned in thematic analysis, the principle of political neutrality is unchanged under the Bill and we do not consider that the number of Deputy Public Service Commissioners will

			impact this.
Ability to designate key positions *These clauses provide for the Commissioner to designate key positions in the public service and have a role in the appointment and performance review of people in those positions.*			
31	29-30	The PSA, Trust Democracy and three individuals suggested removing clauses related to key positions so as to retain full chief executive autonomy in appointments and because of concerns these clauses would lead to 'centralisation' and politicisation. PSA was notably concerned that these clauses are an attempt to drive particular models of organisational transformation.	**As discussed at paragraph 64 of the thematic analysis**, this change does not reflect a desire to centralise functions, but to ensure capability in key positions that have a widespread impact on public service performance (in many cases we expect that a subject matter expert delegate of the Commissioner could exercise this function). In some situations, a wider system or customer objective associated with a position (and the capability needed to respond to that) may not be obvious to an individual chief executive and expert advice in appointing or assessing performance would be valuable. The Commissioner or their delegate would still be bound to act in a political neutral manner when exercising this function.
32	30	Trust Democracy suggested this clause be amended to limit it to 'senior executive roles' so it cannot be applied to senior advisors, principal analysts, or team managers.	Under the Bill as drafted, a key position must be 'critical to the performance of the public service' or have the 'potential to develop senior leaders'. There is no intention to capture all team managers, principal, or senior analysts, and we consider that a commonsense reading of these parameters would generally exclude such positions. However, it may be appropriate for these roles to be captured in particular circumstances (e.g., a manager/director level position in a small, central agency, with a bearing on strategic system performance). In addition, a term like 'senior executive' is not likely to be any more objective or certain, given that organisational structures are not consistent or prescribed.
Public service employees – policy advisory group (PAG) *Clause 32 provides for the fixed-term appointments of employees to the policy advisory group in the Department of the Prime Minister and Cabinet (DPMC).*			
33	32	Three individuals, Trust Democracy, and Jonathan Boston were concerned or suggested removing this clause because they felt it risks politicisation of the Policy Advisory Group.	**As discussed in paragraph 66 of the thematic analysis,** these appointments would still be made by the chief executive of DPMC in accordance with the provisions of the Act, so these appointments would need to be merit-based and appointees would be subject to the same statutory requirements as other public service employees. Individuals employed as PAG advisors are subject to minimum standards of integrity and conduct, including in relation to political neutrality.
34	32	Jonathan Boston further suggested that if there is a case for some positions to be fixed-term, the Commissioner could hold a power to designate such positions, following statutory criteria.	Providing a Commissioner power to designate fixed-term positions in general would be a much broader change than the amendment proposed here, potentially allowing for the proliferation of such arrangements. We also envisage that decisions to utilise fixed-term employment for PAG would be context specific, depending on the policy priorities/current work programmes in a portfolio and the distribution of workload across the group. The Commissioner is not best placed to make

			these judgments, which should fall to the Secretary of DPMC.
35	32	The PSA also suggested replacing this clause with one that enables secondments rather than fixed-term appointments. They are also concerned that changes will be used to prioritise private sector leaders over improving internal capability and think a secondment model is a better way to support mobility and career progression.	Secondments to PAG are already possible under the current legislative framework but for the reasons given in the thematic analysis do not ensure this objective can be met. While appointment of someone with a private sector background is possible under the proposed approach, it is also possible under the status quo, and is not a significant element of the policy intention.
Good employer requirements *Clause 34 removes the requirement for chief executives and boards of an interdepartmental venture to have employment policies that recognise the importance of achieving pay equity between male and female employees, and the importance of remuneration decisions being free from bias.*			
36	34	Two individuals, NZCCSS, the NZNO, Te Uru Tangata Centre for Workplace Inclusion, Rights Aotearoa, Te Rūnanga o Ngā Toa Āwhina and the PSA suggested removing this clause to retain references to pay equity and freedom from bias in the good employer requirements in the Act.	**As discussed in paragraphs 77-80 of the thematic analysis**, we consider that these objectives are implicitly and explicitly provided for in other legislation (Equal Pay Act 1972, Human Rights Act 1993, the New Zealand Bill of Rights Act 1990, the Employment Relations Act 2000 and s 73 of the Public Service Act), and remain confident that public service agencies understand and value these objectives.
37	34	The NZNO and the PSA suggested the Bill amend the good employer obligations to 'give effect to the Gender Pay Principles, work with employees and unions to improve their practice in relation to good employer obligations, foster workplace cultures of respect, dignity, inclusiveness and active participation'.	The Commission considers that the aims behind the gender pay principles were sufficiently provided for in the legislative framework following the Equal Pay Amendment Act 2020. Consistent with the view we held on the Public Service Legislation Bill in 2020, we consider that concepts of respect, dignity and inclusiveness can be provided for by a combination of the requirements in s 73, guidance and standards under the Act, and in Government Workforce Policy Statements.
38	34	The PSA reiterated their recommendations from their submission on the 2020 bill, including that the Commissioner's function be changed to promoting, developing and monitoring the chief executive's good employer obligations, not just equal employment opportunities.	As we noted then, we agreed that the Commissioner's role in promoting, developing and monitoring the employment practices across the public service extends further than just equal employment opportunities. Reference to "good employer obligations" was subsequently included in the Commissioner's general functions and this is not proposed to change in the Bill, as drafted.
Promoting diversity and inclusiveness *Clause 35 repeals section 75 of the Act which requires chief executives and interdepartmental venture boards to be guided by the principle that the group comprising all public service employees should reflect the makeup of society, and foster inclusive workplaces in employment policies and practices.*			
39	35	Four individuals, Trust Democracy, Hāpai Public, Parents of Vision Impaired New Zealand, Rights Aotearoa, Te Rūnanga o Ngā Toa Āwhina, the PSA and the National Delegate Team at the Department of Conservation PSA suggested retaining all references relating to diversity, equity and inclusion in the Act	**As discussed in paragraphs 81-90 of the thematic analysis,** we consider that these objectives are now strongly embedded in the culture and practice of the public service. We also consider that chief executives will continue to be sufficiently directed, incentivised and accountable for the objective of a diverse and inclusive workforce by the remaining provisions in the Act, other legislation, government workforce policy, and guidance from the

		(e.g., by removing cls 21, 35, 39, 43 and 46.)	Commissioner.
40		Rights Aotearoa suggested amending this clause to replace (rather than repeal) s 75 to require evidence-based approaches – i.e. adopting an evidence-based improvement framework that "addresses effectiveness concerns while maintaining a commitment to inclusion".	We consider this approach is clearer and more appropriate than a generic, high-level requirement in the Act to be guided by the makeup of society. We also consider this approach consistent with the body of evidence on diversity and inclusion.
41		Jan Scown suggested including a specific mention that public services meet obligations entered into "when NZ ratified the UNCRPD and other human rights conventions. In particular that services are accessible, inclusive and that the public are involved in designing and monitoring those services".	There are no explicit mandates specifically related to disability, accessibility and universal design in the existing Act. As a general framework for the operation of the public service, the Act deliberately does not direct agencies or chief executives as to the targeting of services to such groups, which are choices made by the government of the day in specific contexts. Specifying the interests of one such group under the Act would only impliedly exclude the other. Policy documents and administrative tools such as the New Zealand Disability Strategy are designed to be flexible and change over time to guide evolving best practice and it is therefore not appropriate to embed their provisions in the Act. We note that the new proposed purpose statement for the public service emphasises supporting the Government to meet the needs of New Zealanders, and we consider this means all New Zealanders.
42		Meliors Simms suggested that the Bill keep all explicit mandates for accessibility and universal design to prevent barriers for people with disabilities.	
43		Three submitters (including Parents of Vision Impaired NZ) suggested that the Bill embed the Enabling Good Lives (EGL) principles and/or the New Zealand Disability Strategy into the Act – e.g., "to continue to honour NZ's legal and ethical obligations to disabled people."	
44		Parents of Vision Impaired NZ suggested retaining explicit references to diversity, equity and inclusion, with specific attention to disability rights and accessibility – to ensure visibility and prioritisation of disability issues across agencies, and strengthen support for disabled people and their families.	
45		Rights Aotearoa suggested that if the diversity, equity and inclusion references are removed from the Act, a treaty compliance mechanism be added to the Bill as a safeguard. Te Rūnanga o Ngā Toa Āwhina also suggested adding a specific reference to te Tiriti obligations and the need to address disparities affecting Māori – including to strengthen the Crown's commitment to Māori and Māori public servants.	There is already a provision in the Act that provides for how the public service supports the Crown in its relationship with Māori under Te Tiriti (see s 14 of the Act). The Government does not propose to change this provision. In relation to Māori public servants, s 73 continues to provide for recognition of their aims and aspirations and employment requirements.
46		Parents of Vision Impaired NZ suggested that while the Bill does uphold transparency and accountability it could better uphold monitoring and data-informed policy (Article 31).	Evidence-based policy making is an established feature of government in New Zealand and there are existing protocols and legislative provisions related to the use of data for policy – an additional legislative requirement in the Public Service Act would not enhance these.

Reorganisation provisions *Clause 37 moves current employment-related provisions to sit together in the body of the Act.*			
47	37	The NZNO suggested removing this clause. They are of the view that s 89A can be seen as creating a backdoor approach to undermining collective agreements and bargaining.	These sections are currently set out in Sch 8 of the Act and their content is not proposed to be changed. The amendment simply moves them into the body of the Act so that they are grouped with the other employment-related provisions.
48	37	Ukes Baha also suggested removing this clause to restore redundancy and collective bargaining protections for staff.	
Notifying and reporting on misconduct or serious misconduct investigations *This amendment inserts a requirement for chief executives and boards of interdepartmental ventures to notify the Commissioner before they commence a misconduct or serious misconduct investigation in relation to senior public service employee, and a requirement for agencies to report on an annual basis the outcomes of all investigations into misconduct or serious misconduct by employees ceased or concluded.*			
49	38	Hāpai Public and the Parents of Vision Impaired NZ explicitly supported this mechanism, arguing that it would support transparency and accountability. However, the PSA specifically recommended that this clause be amended to ensure that issues (especially minor ones) aren't reported to the Commissioner in a way that's attributable to individual employees.	Notification under this clause is only expected to occur when an investigation is likely or a real possibility, and we think a commonsense interpretation of this clause provides for that. Some information relating to investigations of alleged misconduct will be personal information and will need to be handled in accordance with the Privacy Act in the normal way. We have engaged with the Office of the Privacy Commissioner to ensure a process that appropriately protects this information.
50	38	RJ Leys suggested removing this provision commenting that combined with immunity provisions it allows the Public Service Commissioner to control or suppress investigations without consequence. Ukes Baha was similarly concerned that it centralises oversight and risks politicisation of disciplinary processes. The Disabled Persons Assembly New Zealand Inc also saw merit in this reporting but think it would be harder for ordinary members of the public to be listened to when serious incidents are investigated as it will be under the control of central government.	There is no connection between these proposals and immunity provisions. The Commissioner already has a degree of oversight in terms of their ability to set minimum standards for integrity and conduct, and the intention of these provisions is to ensure they can provide timely advice about how those standards should be interpreted or applied in relation to any investigations. The provisions do not transfer decision-making powers to the Commissioner and there is no power proposed for the Commissioner to suppress investigations – chief executives would still need to conduct such investigations under the Employment Relations Act 2000 where they consider misconduct may have occurred. The public in general is not involved in such investigations (as they are employment matters), but the reporting requirement proposed in a new s 94B would help to increase transparency and public awareness of investigations overall. In order to comply with the Privacy Act, the proposed report produced in s 94B will be an aggregated report without individuals identified, and it is a report on the outcomes of all investigations across the agencies listed in s 17(2) of the Act, so it cannot be selectively or
51	38	Ukes Baha specifically commented that this change undermines natural justice if reporting is used selectively or punitively.	

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			punitively applied.
Government workforce policy: content *Clause 39 removes 'pay equity, workforce diversity and inclusiveness' from the indicative list of matters that may be included in government workforce policy.*			
52	39	The NZNO, Te Uru Tangata Centre for Workplace Inclusion, Rights Aotearoa and the PSA suggested removing this clause so that diversity, inclusion and pay equity are retained as matters that can be addressed in government workforce policy.	**As discussed in paragraph 88 of the thematic analysis,** the list of matters specified in s 97(2) of the Act is 'without limitation', so there would be nothing preventing these matters being addressed in a future government workforce policy under the Bill as proposed.
Immunity for chief executives and employees *These amendments insert 'the Commissioner' into existing immunity provisions, and clarify that it applies to chief executives acting in specified or non-specified capacities.*			
53	41(1)-(2)	Ukes Baha suggested amending this clause to limit immunity provisions and retain accountability for chief executives. They suggested this clause extends legal immunity to chief executives acting in any capacity, shields senior officials from accountability and reduces public recourse when harmed.	This change is intended to clarify that this immunity: • applies to the Public Service Commissioner in the same way it does to the Deputy Public Service Commissioner and other public service chief executives; • applies to such people when exercising both their general administrative functions and powers as chief executives AND functions and powers specified under statute (e.g., the chief executive of Stats NZ as both the chief executive of that public service agency and the statutorily independent Government Statistician). This has always been the intention of this section. Public service chief executives will continue to be held accountable through the same levers they are at present, and the clause does not expand the scope of the immunity. Providing immunity for these specific parties from liability in civil proceedings does not limit or affect the existing law regarding remedies against the Crown more broadly, for example as set out in the Crown Proceedings Act 1950.
54	41(2)	RJ Leys suggested we change the wording as inclusion of "or otherwise" extends immunity to chief executives beyond lawful authority saying no democracy grants officials immunity for ultra vires acts.	
Cost recovery *Clause 43 allows the Commissioner to recover from an agency the actual or reasonable costs incurred when conducting an investigation, inquiry or review.*			
55	43(1)	The PSA and Ukes Baha suggested removing this clause. The PSA considers it gives the Commissioner broad powers to recover costs of investigations without any restrictions, criteria on the matters being investigated, thereby incentivising 'over-investigation' of agencies, potentially for political reasons. They recommend the Government commit to resourcing the Commission appropriately to carry out investigations. Ukes Baha is concerned it creates perverse incentives to minimise scrutiny and shifts financial burden to operational	The Commissioner's ability to undertake investigations, inquiries and reviews is critical to ensuring system accountability and upholding public trust and confidence. This power is not unlimited – it must be considered necessary or desirable for the Commissioner to exercise the power, or the Commissioner must be directed by the responsible Minister [sch 3 cl 2]. It is not possible to pre-specify (and therefore pre-fund) the number or scale of such investigations or reviews that might be necessary in a given budget period. Under-provision in advance could mean the Commission has insufficient resource for investigations or reviews that are necessary to uphold trust and confidence in government. In this context, this amendment confirms the current practice, as the Commission already

		budgets.	recovers costs when exercising this function, and we do not consider that this approach sets any negative incentives.
Performance improvement reviews *The amendment provides a new, specific mandate for the Commissioner to undertake agency and system performance improvement reviews (separate from their investigations and inquiries mandate).*			
56	43	**Further analysis by officials** As drafted, in addition to public service agencies, the Bill 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.	We are now mindful that s 100 of the Policing Act 2008 specifically clarifies that any review of Police undertaken by the Commissioner under the current mandate (under s 44 and Sch 7 cl 3 of the Act) is limited to the general and administrative functions of the Police Commissioner, and must not review the exercise of 'constabulary' functions. **We therefore recommend that the Committee agree to 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.
Directions to manage risks to the national interest and national security *The amendment proposes to allow the Commissioner to restrict or prohibit the use of specific products, services or vendors by or within the Public Service, where there is a national security risk or other national interest.*			
57	43(7)	Ukes Baha suggested that this clause be removed on the basis that classified security information should not be used in decision making without due process safeguards. They were concerned that this clauses imports a "secret evidence model" into public service governance, undermining transparency and due process.	Classified security information is one of the ways Governments may become aware of the risks being addressed with this provision. The text in the proposed cls 5B, 5C, 5E, and 5F (outlined in this clause of the Bill) includes specific safeguards that are intended to ensure due process (including the notification of affected persons where classified information has been relied on, the ability to request a summary of that information, and provisions dealing with the use of that information in court proceedings).These provisions are based on and consistent with those used in comparable legislative frameworks.
58	43(7)	**Further analysis by officials** In the Bill as currently drafted, the Commissioner must have regard to a number of considerations before issuing a direction of this kind, including '*the effect of the direction on the users of the vendor, service or product*'.	When this consideration was drafted, we had contemplated it applying (as per the policy intention) only to public service 'users' of the product, service, or vendor. However, given the breadth of the other considerations in proposed cl 5C(4), it is likely it would be interpreted widely as *all* users (i.e., including private and community users). 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). **We recommend that the Committee agree to amend this clause to clarify that this consideration relates to the impact on relevant agencies (which are defined in the Bill) or individuals working in those agencies.**

Delegation by public service chief executives *This amendment intends to clarify the current definition of a delegate to provide for the existing practice of delegating to the employee of a contracted provider where the chief executive exercises control or direction over that person similar to their employer.*			
59	45(1)	10 individuals, the NZNO, the PSA, Hāpai Public and Te Rūnanga o Ngā Toa Āwhina opposed this clause on the basis that they do not support the ability for chief executives to delegate to the private sector/contractors. Generally, these submitters suggested that this clause: - reduces accountability - erodes transparency, fairness and/or integrity of services - increases privatisation, prioritises profit over service and/or creates inconsistency between providers Hāpai Public was particularly concerned about its application in the context of statutory functions that involve the legitimate use of force or the ability to compel people (e.g., detaining and penalising people, or making decisions about their care). The PSA specifically suggested that chief executives should only be able to delegate functions and powers within the public service.	The use of third party (private or community) providers in the delivery of public services is already authorised under the Act, and is an established feature of good government. In many cases, it is a way of ensuring the efficient or timely delivery of such services (particularly in times of surge or acute need) or improving the effectiveness of services (particularly where third-party providers are closer to target populations and therefore have a better understanding of their needs and the delivery models that would suit best). In this context, this clause is a clarification of the existing policy intention and practice. It responds to recent uncertainty created by case law which suggests the existing reference to a 'contractor' in Sch 6, cl 2(4)(c) may not be sufficient to cover instances of delegation to an individual deployed into a role in an agency under a labour-hire agreement where the agency has a contract with the labour-hire provider and the individual is an employee of the labour-hire provider (such as a call centre worker brought in to work in an agency during a period of surge activity). It does so by clarifying that the ability to delegate extends to the employee in this example, where the chief executive is the controlling third party within the meaning of the Employment Relations Act. Both the chief executive (in the act of delegating) and the delegate would still be expected to comply with minimum standards of integrity and conduct set by the Commissioner (as per Sch 6 cl 2(9) of the Act). The proposal for an amendment to require the upholding of Te Tiriti obligations is outside the Government's policy intention.
60	45(1)	Te Rūnanga o Ngā Toa Āwhina specifically suggested limiting the delegation of functions to retain accountability in public sector, and require that any delegation uphold te Tiriti obligations and Māori engagement.	
61	45(1)	Meliors Simms suggested limiting the ability for chief executives to contract out services that are not held accountable to human rights, the New Zealand Disability Strategy, human rights or EGL principles.	The supplier code of conduct applied to model contracts with third-party providers requires all providers to uphold human rights. It would not be appropriate to generally constrain contracting services on the basis of their consistency with specific policy objectives or strategies. We expect all chief executives to take into account the relevance of existing government policy and stakeholder needs when advising on, designing, commissioning, and procuring services.
Long-term insights briefings (LTIBs) *These amendments aim to streamline the requirement for long-term insights briefings, requiring DPMC to coordinate one briefing each term of government.*			
62	45(2)-45(9)	Two individuals, the PSA, Age Concern New Zealand, the NZNO, Hāpai Public and the National Delegate Team at the	**See discussion in paragraphs 37-41 of the thematic analysis.** We acknowledge the points made by submitters, including the Clerk of the House, about the

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		Department of Conservation PSA suggested retaining the current provisions around LTIBs because they consider that the current arrangements provide valuable opportunities for agencies to articulate a long-term view of the public interest.	value of agency-specific perspectives on long-term issues, and the role this can play in informing parliamentary scrutiny of the Executive. At the same time, we do not consider that requiring 34 separate, agency-specific briefings is likely to address the very real challenges of overlap and duplication evident in the first round of such briefings, nor is this consistent with the Government's policy intention for the Bill In practice DPMC will coordinate across agencies to deliver a tightly focused briefing. We expect the LTIB will continue to play a role in supporting parliamentary scrutiny, and depending on its focus, will be drawn to the attention of relevant select committees. As discussed in the thematic analysis, we also note that the LTIB mechanism is just one of a range of legislative provisions intended to support long-term thinking in policy development and increase the capability of the public service to undertake long-term thinking as a core function of agencies.
63	45(2)-45(9)	Jonathan Boston supported the importance of LTIBs, and suggested an approach for LTIBs based on that of the Australian Commonwealth Government (where a centralised briefing is prepared by the Australian DPMC, but where he suggests all relevant agencies have been substantially involved).	
64	45(2)-45(9)	In order to support parliamentary scrutiny of the Executive, the Clerk of the House suggested that these clauses should provide that: (a) the DPMC must prepare a briefing that deals with overarching long-term issues; and (b) all chief executives of departments must prepare long-term insights briefings on matters relevant to the functions of their departments, with this responsibility able to be met jointly or separately; and (c) the DPMC must coordinate and support the process of preparing long-term insights briefings.	
65	45(2)-45(9)	**Further analysis by officials** We are also conscious that DPMC conducted a review of the first round of LTIBs in 2023. This review recommended removing the requirement for two rounds of consultation from the Public Service Act. This has been identified as unnecessarily burdensome, adding time and cost into the LTIB process.	Consistent with the Government's policy intention to streamline LTIB requirements, we **recommend that the Committee agree to remove the requirement for public consultation on the subject matter of an LTIB (while retaining the requirement for consultation on the actual draft briefing).** We have consulted with DPMC, who support this recommendation.
66	45(2)	Some submitters made suggestions around extending timeframes for LTIBs, e.g., lengthening the cycle from three years to five years – to allow more time for research on a topic, or reduce pressure on agency resource to produce a briefing. Jonathan Boston also suggested modelling the frequency of the briefing on the Australian Commonwealth provisions, which	LTIBs are intended to provide information about medium and long-term trends, risks and opportunities that affect or may affect New Zealand and its society. Taking into account the pace of change, the work involved in producing a quality briefing, and the lead-in times necessary to react to significant long-term issues, we consider that a three-year cycle is appropriate.

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		require at least one briefing each financial year.	
67	45(2)	Andrew Jackson suggested increasing the number of LTIBs that should be produced (e.g., 3-4 briefings sequentially) in addition to/building on the proposed DPMC briefing.	
68	45(2)	Andrew Jackson suggested including that topics for LTIBs should be agreed in open discussion with Ministers.	Almost all feedback on LTIBs has seen significant value in the briefing(s) being prepared independently of Ministers, and we consider this should continue to be the case.
69	45(2)	**Further analysis by officials** 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.	We 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. On balance, **we recommend the Committee agree to amend this clause to provide for the three-year period to commence on 1 June 2026. This would:** • clearly separate the current process from the upcoming requirements of the Bill; and • provide some contingency room to adjust to an unexpected election or work pressures on the public service, taking into account the current timing of the electoral cycle. We have consulted with DPMC, who support this recommendation
Long-term thinking in policy development *This amendment requires the Chief Executive of DPMC to issue guidance on long-term thinking in policy development.*			
70	45(10)	Malcom Menzies suggested that, in addition to DPMC issuing guidance to agencies that would support long-term thinking and increase the capability of the public service to do this, this clause require DPMC to "*request*" that agencies do these things. They also suggested an additional subclause requiring that within one year of the LTIB being presented to the House of Representatives, chief executives should be requested to publish a report on how their ministry or department intends to respond to the briefing – so that the LTIB is not a waste of time.	In general, good legislative practice does not enact 'requests' to comply with objectives as they do not add anything to what is possible under non-legislative arrangements. Departmental responses to LTIBs will to some extent be guided by the preferences of the government of the day, which is accountable to Parliament and the public through various mechanisms, so we do not consider that an additional report in response is necessary.
71	45(10)	Andrew Jackson suggested that expert foresight capability should be applied in the development of LTIBs, and Malcom Menzies suggested that to support the chief executive of the Department of Prime Minister and Cabinet, a dedicated foresight/futures unit is to be established within the Department.	As the Bill provides responsibilities for DPMC to produce/coordinate the LTIBs, it is up to that agency (in conjunction with their relevant Minister) to determine the appropriate resource/organisational structure required to support this, though we note that the general responsibility of chief executives for the efficient and economical delivery of the goods and services provided by their agency and for the performance of their functions and duties would require a chief executive to make sufficient provision for capability in this area.

Business continuity management *This amendment adds a requirement to the Act for chief executives to have business continuity management in place, and make this available to the Commissioner on request.*			
72	45(10)	The Disabled Persons Assembly (DPA) New Zealand Inc supports business continuity management (BCM) planning provisions for agencies but suggested that this clause require chief executives to plan to meet the needs of all at-risk client groups and employees in situations of emergency or service disruption.	It is intentional that this clause does not provide specific requirements about the content of plans, or how they should be assessed. It is expected that approaches to BCM planning will differ across the public service, depending on the functions and services of each individual agency, and specifically referencing the interest of some population groups would only risk impliedly excluding others. There is more substantive policy work underway on business continuity and emergency planning in conjunction with the Emergency Management Bill (also mentioned by some submitters) and risk and resilience in the public service more broadly. This work can consider specific features or requirements of such planning.
73	45(10)	Carina Meares and Parents of Vision Impaired NZ suggested including in this clause specific reference to/obligations regarding disability inclusive emergency planning – to ensure they are not overlooked in crises, and to ensure emergency planning is disability-inclusive.	
74	45(10)	The Government Continuity Reference Group (GCRG) supported these provisions and suggested that this clause extend BCM requirements to be applicable to the wider public sector (not just to public service agencies).	The existing provisions are focused only on public service agencies as the Commissioner does not have a direct performance management relationship with wider public sector agencies. Extending a form of this requirement to entities such as Crown entities or local government would require specific assessment and would more appropriately be dealt with under other relevant legislative frameworks (such as the Crown Entities Act or Local Government Act).
75	45(10)	GCRG also suggested including that agencies provide annual assurance that their BCM system meets standard requirements to the Commissioner – rather than just agencies' BCM plans being shared with the Commissioner.	The form of business continuity management needed to ensure the delivery of critical functions and services will differ across agencies. The clause as drafted allows flexibility as to how the Commissioner can obtain assurance that BCM systems are sufficient - while the Commissioner has a mandate to drive agency performance in this respect, it is likely that they would need to seek advice from others, such as the Director of Civil Defence and Emergency Management and/or the Secretary of DPMC, when considering the sufficiency of specific agency systems.
Appointment of public service chief executives *These amendments intend to better focus appointments on merit, make technical amendments to facilitate efficient appointment panels or clarify acting arrangements, and ensure transparency if the Governor-General were to decline a chairperson's recommendation.*			
76	46(3)	**Further analysis by officials** As drafted, this clause is a technical amendment clarifying that the Public Service Commissioner can still be one of the people	It has become frequent practice to include on appointment panels an existing public service chief executive who has valuable insight into the suitability of candidates for such roles. In the Bill as drafted, while the Commissioner acts as the employer of chief executives, they are

		included on an interview panel for the appointment of chief executives even if they are not the chairperson. The amendment would achieve this by adding "*the Commissioner or* Deputy Commissioner (*whoever is not also the chairperson)*, or an employee of the Commission;" to Sch 7 cl 3(4)(b).	not employees of the Commission. We propose that the Act provide for this option in a way that does not unnecessarily expand the membership of the panel. As such, **we recommend the Committee agree to amend this clause by also adding the phrase "or a public service chief executive" to Sch 7, cl 3(4)(b).** We note that as per cl 3(4)(a), the Commissioner or Deputy Commissioner would still be required to sit on and chair the panel.
77	46(4)	Te Uru Tangata Centre for Workplace Inclusion and the PSA specifically suggested removing this clause to retain provisions regarding diversity and inclusion considerations in chief executive appointments.	**See discussion in paragraphs 84-85 of the thematic analysis.** A specific requirement in this context is more likely to be misconstrued as a direction to give weight to a feature of a candidate's identity when appointing a chief executive, which we do not consider would be consistent with the principle of merit-based appointments. While we appreciate there will be instances where an applicant's knowledge of or relationship with a specific community is likely to be key to their success in a role, such attributes can be included in position descriptions and assessed as part of the merit of the applicant, but the selection process is still based on functional attributes, not the identity of the applicant per se.
78	46(5)	The NZNO opposes the amendment requiring the chairperson of an interview panel to publish notice of a Governor-General's direction to appoint a chief executive on the basis that it suggests greater Government engagement in the appointments of chief executives.	This clause does not change the role of the Governor-General in the appointment process, but seeks to introduce greater transparency. At present, if the Governor-General were to decline a recommendation to appoint and direct the chairperson to appoint another person, the chairperson is only required to publish notice of the appointment. The amendment in the Bill proposes that the Chair should also publish notice of the Governor-General's direction, given the constitutional significance of such an action.
79		Janet McLean suggested adding an amendment to the Bill to change Sch 7 cl 3(2) to not allow Ministers to identify matters for appointment panels to take into account in relation to the appointment of a "constitutional official", e.g., the Government Statistician, Solicitor-General or the Police Commissioner. This was on the basis that they are "too important to be politicised".	The roles highlighted here have their own bespoke appointment processes given their unique positions. With the exception of the appointment of the Government Statistician, cl 3(2) does not apply to these appointments (although in practice similar or the same steps may be taken). Inviting Ministers to identify matters that the chairperson of an interview panel must take into account simply reflects the fact that Ministers often have insight into key policy challenges or the types of capabilities that may be needed by a successful chief executive at a point in time. The requirement only means the chairperson must turn their mind to these matters when making their decision, and we do not consider this undermines the independence of the decision the chairperson makes under Sch 7, cl 3(8).
80		Janet McLean suggested adding an amendment to the Bill to change Sch 7 cl 3(2)(b) so that the scope of matters Ministers may identify under this clause is changed from "any" to "relevant to merit", to prevent the Minister from identifying	As noted above, the chairperson must still reach an independent decision under Sch 7 cl 3(8) and this would involve them considering which, if any, matters identified by Ministers are relevant to the appointment. The Commissioner then makes a decision in accordance with the principle of merit-based appointment. Prescribing this further risks introducing a

		matters that are discriminatory or unreasonable.	subjective concept, potentially excluding matters that could appropriately be considered, and unduly restricting a positive and constructive dialogue with Ministers about the challenges they would like to see a chief executive address in their portfolio.
Re-appointment of public service chief executives *This amendment repeals the current provision for the re-appointment of chief executives, to make all chief executive appointments contestable.*			
81	46(6)	Five individuals, Hāpai Public, Age Concern New Zealand and the PSA specifically suggested removing this clause (to retain current re-appointment provisions), because they consider it would have a negative impact on political neutrality, free and frank advice, long-term thinking and/or the general attractiveness of these roles.	**As discussed in paragraphs 56-59 of the thematic analysis,** we do not consider that the removal of the re-appointment provisions for chief executives creates any substantive risk to neutrality, or a significant deterrent to incumbent chief executives re-applying.
Performance review of public service chief executives *These amendments provide for the Commissioner to develop a framework (incl. criteria and process) for conducting chief executive performance reviews.*			
82	46(10)	Trust Democracy suggested that this clause require the assessment framework for both chief executive and agency performance reviews to include criteria for assessing how well the public service principles have been upheld, on the basis that the principles represent the Act's key desired outcomes.	We consider that performance assessment frameworks for both chief executives and agencies need to be able to evolve, cover a range of criteria (including criteria relevant to a particular role or function) and/or be able to adapt to address different emphases at different times. It is also the case that adherence to the principles is best assessed against the practical ways in which they are manifested, such as in the quality of policy advice, or positive relationships with stakeholders. If a potential challenge has been identified in relation to adherence with the principles in an agency, the Commissioner is likely to tailor the specific expectations for a chief executive to respond to that. For all of these reasons we do not propose to prescribe the content of the framework in this way.
83	46(10)	Trust Democracy also suggested that the assessment framework's indicators be published, in addition to the criteria and process.	The framework published would set out the process, and the broad types and categories of expectations against which chief executives would be assessed in general, but indicators would be tailored to specific individuals and chief executive roles. These would remain part of those individuals' specific performance agreements and subject to the confidentiality of the employment relationship, so would not be published.
84	46(11)	The PSA suggested that this clause require the Commissioner to consult the appropriate Minister when setting performance expectations and reviewing chief executive performance, but not require that the Commissioner have regard to the Minister's recommendations.	**See discussion in paragraphs 60-61 of the thematic analysis.** These changes are intended to provide greater transparency and confidence in the performance process and codify an existing practice. The requirement to 'have regard' only requires the Commissioner to turn their mind to the views of the relevant Minister, and s 45 of the Act will continue to make clear that the Commissioner must act independently when making decisions about individual chief executives, so any decisions regarding the expectations and performance of chief executives remain with the Commissioner.

Employment of public service employees *Clause 47 ensures the notification of fixed-term and casual appointments within agencies, and removes the requirement for the Commissioner to approve departmental procedures for reviewing appointments.*			
85	47(1)	NZLS suggested amending this clause to clarify how 'temporary' is understood in this context, suggesting it overlapped with fixed-term and casual appointments.	We agree that temporary is an uncommon term, and could encompass acting, fixed-term, or casual appointments. However, given that the proposal is to **remove** the exemption that Sch 8 cl 4 currently provides for appointments of this nature, this uncertainty will cease to exist (i.e., chief executives will simply have to notify all appointments that are not acting or ministerial staff appointments).
86	47(1)	NZLS suggested clarifying when chief executives must notify appointments of casual employees (e.g., at the start of their first engagement, or each time they are brought in for a few days). They are concerned that this requirement may become administratively burdensome.	The most common and practical way of enabling casual staff is via a contract with variable hours of work, and notification would occur once on the signing of the contract, not each time hours are allocated. With modern processes we consider that the administrative burden of this requirement is low.
87	47(1)	NZLS suggested amending this clause to limit its scope and/or introduce a time threshold by clarifying that these types of appointments must be notified only if they are appointed for more than a certain timeframe (e.g., 3-6 months) – to avoid an unnecessary administrative burden for relevant employers.	
Other suggestions for additional changes to the Bill			
88	The Animal and Plant Health Association New Zealand suggested that the Bill be strengthened with: - further targets/reporting for risk, efficiency, communications and engagement by leadership, accountability measures for programme outcomes and decisions that lead to adverse events, - how budget appropriations are linked to performance outcomes and role of select committee in that, - best practice governance to support diverse mix of skills and behavioural competencies on boards.	It is not helpful to specify targets such as these in legislation, as to be meaningful they need to change and evolve over time, and they are already provided for in existing approaches to chief executive performance frameworks and/or agency performance reviews. Performance measures on appropriations and requirements for performance reporting and parliamentary scrutiny more generally are covered in the Public Finance Act 1989 and Crown Entities Act 2004. We do not have governance boards for public service agencies. The membership of interdepartmental executive boards is drawn from a fixed pool of those agency chief executives who have a substantive role in relation to the policy/issues in question, and capability is allocated to the board via working level staff.
89	The Breast Cancer Foundation suggested that s 50 be amended so that advisory committees are appointed via iwi/Māori partnership boards, not politically – on the basis that equity and te Tiriti be strengthened at a system level to drive accountability and outcomes.	Appointees to Commissioner's advisory committees are not political appointments, they are people chosen for their expertise in relation to particular issues, so it would not be appropriate to establish a generic appointment process. Section 50(3) already requires the Commissioner to have due regard to the nature of the community interest in the particular matter or matters to be addressed by that advisory committee when deciding on

		membership.
90	The PSA suggested the Bill could have introduced a more whole-of-system approach to the public service workforce, to support the mobility of workers between agencies to meet government priorities.	The Commission supports the idea of a whole-of-system approach to workforce and greater workforce mobility and already facilitates the transfer of staff across the service in times of high need. The current Act makes provision for this to the fullest extent possible without fundamentally changing the autonomy of chief executives to employ their own staff, and reconsidering this parameter is outside the policy intention for this Bill.
91	Rights Aotearoa suggested there be a 24 month transition period applied to protect existing diversity staff/programmes/settlements and frameworks.	The Commission's work programme, frameworks, and resource allocation is already consistent with the changes proposed in the Bill, and no specific 'settlements' are affected. Suspending the application of some sections would be likely to create confusion as to the intention of the Bill.
92	Rights Aotearoa also suggested that an independent review mechanism be established after two years.	The Commission monitors the implementation and application of the legislation it administers as part of business as usual. Given the targeted nature of the changes in the Bill, we do not consider an independent review mechanism is justified.

Summary of comments that appear unrelated to the Bill

131. Around 16 submitters provided suggestions that do not appear to relate to the Bill or the Act specifically. In general, these suggestions focused on:

    131.1. the potential to apply parts of the Act to local government;

    131.2. improvements and ideas for specific work programmes in the public service; and

    131.3. general criticism of the current Government.

132. We have not presented these comments individually in this report but can provide a more detailed summary if the Committee wishes.

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Appendix A: List of submitters

1. Hilary Alcorn
2. Hope Rath
3. Isabella Francis
4. Kent Stevens
5. Laura Wattie
6. Materita Akarana
7. Sharon Campbell
8. Bart Teekman
9. Bryce Parker
10. Carwyn Jones
11. Chrystelle Deane
12. Els Teekman
13. Jacob Sorenson
14. Kay Laracy
15. Marije Postma
16. Sam Spekreijse
17. Summer Tutukitewharau
18. Will Moscrip
19. Aasha Parle
20. Andrew Jackson
21. Chalamayne Kanara
22. Geer Iseke
23. Government Continuity Reference Group (GCRG)
24. Gregor Paetz
25. John Connor
26. Kate Tioke
27. Mary Buford
28. Ngawini Haworth
29. Parents of Vision Impaired NZ
30. Ukes Baha
31. Aine Kelly-Costello
32. Caleb Gordon
33. Cheyenne Kennedy
34. Esther Ngaro
35. Jacki Te Haki
36. Joe Te Haki
37. Kathleen Murdoch
38. Killini Ngaro
39. Marcus Smith
40. Nicola J Smith
41. Rebecca Perez
42. Robin Stevenson
43. Skylar Campbell
44. Hāpai Public Institute of Public Professionals Aotearoa New Zealand
45. New Zealand Public Service Association Te Pukenga Here Tikanga Mahi (PSA)
46. Age Concern New Zealand
47. Aged Care Association
48. Animal and Plant Health Association New Zealand
49. Barbara Allen
50. Billy Leonard
51. Breast Cancer Foundation NZ
52. Business New Zealand
53. Carina Meares
54. Carolyn Skelton
55. Craig Atkinson
56. David Wilson
57. Disabled Persons Assembly (DPA) New Zealand Inc
58. Ewan Lincoln
59. Free Speech Union
60. Greg Mitchell
61. Huria Madani
62. Interested Citizens Group - Hamilton
63. Jan Scown
64. Janet McLean
65. Jasmin Taylor
66. Johanna Warren
67. Jonathan Boston
68. Kerry Jane Staples
69. Malcolm Menzies
70. Mary-Anne Poa
71. Matthew (Matt) Frost
72. Maurice Nolan
73. Meliors Simms
74. National Delegate Team at Department of Conservation, PSA
75. New Zealand Council for Civil Liberties
76. New Zealand Law Society Te Kahui Ture o Aotearoa
77. New Zealand Nurses Organisation
78. NZCCSS (NZ Council of Christian Social Services)
79. Petra Paignton
80. Rachael Wasey
81. Renee Sara
82. Rights Aotearoa
83. RJ Leys
84. Ruth Harrison
85. Sammy Pitt
86. Siobhan Hill
87. Sydney Hill
88. Taxpayers' Union
89. Te Kahui Tika Tangata Human Rights Commission
90. Te Rūnanga o Ngā Toa Āwhina
91. Te Uru Tangata Centre for Workplace Inclusion
92. Trust Democracy
93. Victor Wahanui

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