



Public Service Commission

Te Kawa Mataaho

19 June 2026

9(2)(a) privacy

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Official Information Request

Our Ref: OIA 2026-0147

I refer to your Official Information Act 1982 (OIA) request received by the Public Service Commission – Te Kawa Mataaho (the Commission) on 28 May 2026 for information on the code of conduct, corruption within government and data on code breaches.

For ease of reference, we have listed each of your requests (numbered 1 – 13) and provided our responses directly underneath.

As we advised you via a letter dated 2 June 2026, we transferred your final request to Oranga Tamariki for response as the information requested is more closely connected with Oranga Tamariki's functions.

Information publicly available

Requests 1 – 4:

1. *.. send a more detailed commentary of each principle of the PS Code please?*
2. *do you hold a guideline on the duty to remain politically neutral*
3. *and finally a similar convention on the duty to maintain independence?*
4. *please include guides on: duty to be accountable.*

The following information is covered by your request and is publicly available on the website at the link provided for in the table below. We have also included printed copies with this response. We have interpreted your wording of “*duty to be accountable*” as the Public Service value of ‘accountable’, and “*duty to maintain independence*” as the Public Service value of ‘impartial’.

Item	Document Description	Website Address
1	The Code of Conduct for the Public Sector	https://www.publicservice.govt.nz/assets/Uploads/The-Code-of-Conduct-for-the-Public-Sector.pdf
2	Guidance: Public Service Principles	https://www.publicservice.govt.nz/assets/Uploads/Principles-Guidance_v3-2.pdf

Accordingly, I have refused your request for the documents listed in the above table under section 18(d) of the OIA on the grounds the information requested is or will soon be publicly available.

Information being released

Request 5: *Written confirmation of the code applies to everyone in public duty – “includes the Prime Minister” for clarity, please*

Under section 17(2) of the Public Service Act 2020, the Code of Conduct of the Public Sector (the Code) applies to the Public Sector and all public servants. The Public Sector is defined within the Code as the organisations to which the Code applies, specifically:

- a) Public service agencies (departments, departmental agencies, interdepartmental executive boards, interdepartmental ventures) and Crown agents
- b) Crown entities (other than Crown agents and excluding tertiary education institutions and school boards, and Crown Research Institutes and their subsidiaries)
- c) Companies named in Schedule 4A of the Public Finance Act 1989, and
- d) the Parliamentary Counsel Office.

A public servant is defined within the Code as any person to whom the Code applies, specifically anyone working in the Public Sector, e.g., employees and contractors. By way of explanation, this does not include Board members of Crown entities or Directors of Public Finance Act 1989 Schedule 4A Companies, as they have their own codes of conduct issued by the Public Service Commissioner

The Code is not issued to Ministers or the Prime Minister. They are not within the Commissioner’s mandate to issue standards of integrity and conduct under section 17(2) of the Public Service Act 2020.

Information does not exist

Request 6: *What international treaty is the Code incorporating in principle? – Is it the “Vienna Declaration and Programme of Action?”*

- *This instrument centres on the anticorruption principles of “independence”, “impartiality”, and “competence” – these would be visibly*

interchangeable with “fair”, “impartial”, and “responsible” and in broad strokes mean the same thing.

- *Would it be a sound presumption that the Vienna Declaration is essentially what the Code introduces into NZ domestic law – or the basic principles of the Vienna Declaration?*

There have been no direct decisions taken to use the Code to incorporate international treaties. I am therefore refusing this part of your request under section 18(e) of the OIA as the information does not exist.

Request 7: *Forward a printed copy of the declaration that public servants (particularly those in profile parliamentary or government roles) would make in certifying whether or not they have past integrity issues hidden in their past and which may come up with the scrutiny that comes with publicly visible roles – and self-certification declaration that they are suitable persons, please?*

We are refusing this part of your request under section 18(e) of the OIA as the information does not exist. There is no single declaration that all public servants must make when being appointed to a role. It is up to each agency to determine its own recruitment, vetting, and integrity assurance processes, including how it satisfies itself that individuals are suitable for appointment or employment in particular roles.

While there is no standardised “declaration”, agencies are expected to undertake appropriate due diligence consistent with their obligations as good employers and under the Public Service Act 2020.

The Commission has model standards that outline expectations for agencies when recruiting staff. It also sets out expectations for serious misconduct investigations and settlement agreements:

<https://www.publicservice.govt.nz/assets/DirectoryFile/Workforce-Assurance-model-standards-Oct-2022.pdf> (copy enclosed).

To the extent that any declarations, integrity checks, or vetting materials may exist, these would be held by individual agencies rather than the Commission.

Request 8: *Mark Mitchell just went on TVNZ Breakfast to polish up the corruption issues in the media at present. He said “we have very low levels of corruption in government.” This raises a relevant question for this OIA, please: Can you forward a printed copy of any information that it would be expected that only about 5% of improper practices / corruption would become known, with the majority not necessarily meeting criminal threshold, but nonetheless would breach the Code.*

We are refusing this part of your request under section 18(e) of the OIA as the information does not exist. If you would like to follow up on any comments made by Hon Mark Mitchell, Minister of Police, you may wish to write to him directly.

Request 9 - 13:

9. Have you any information on the general and actual reality of covert code breaking being a real factor, please?

10. Have you any reports that PSC continues to busily field integrity complaints, conduct inquiries and make findings on code breaches on an ongoing basis, please

11. have you information of statistical values of “code breaches found” (by number per annum – that shows, for example, a variation in trend across two years – showing fluctuations in positive cases / complaints fielded across time, please?

12. Statistical figures that show changes in disintegral behaviour dependent on different contexts – with managerial, administrative, and delivery changes that, for example, has an effect on the public service and opportunity-seeking behaviours / code breaches being correlated with certain ideological domain political party approaches / styles impacting positively or negatively on code breaching?

13. Do you have information that shows particular periods of time being particularly problematic for increased code noncompliance, without correlation to any other factor, please?

The Commission has an integrity function to receive complaints, and the Commissioner is able to conduct inquiries and investigation as per the Public Service Act 2020. However, the data and reports you have requested are not held by the Commission. I am therefore refusing requests 9 – 13 under section 18(e) of the OIA as the information does not exist.

If you wish to discuss this decision with us, please feel free to contact Enquiries@publicservice.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that we intend to publish this response (with your personal details removed) on the Commission’s website.

Yours sincerely



Nicky Dirks

Manager – Ministerial and Executive Services
Public Service Commission Te Kawa Mataaho

CODE OF CONDUCT



Te Tauākī Whanonga mō te Rāngai Tūmatanui
The Code of Conduct for the Public Sector



New Zealand Government
Te Kāwanatanga o Aotearoa

**This Code is for all of us
and sits at the heart of our
work, guiding what we do
and how we do it.
We must know it and hold
ourselves accountable to it,
wherever we work.**

Kupu Whakataki | Foreword

We live in an ever-changing world where the principles and values that underpin this Code are essential – they are the foundations for trust and confidence in the work we do and how we serve New Zealand and its people.

Integrity is not a one-off task – it is an ongoing obligation for us as public servants. Acting with integrity strengthens relationships, improves services, and makes a real difference in our communities. This defines the Public Sector and gives meaning and purpose to our work. It is important that we are all on the same page when it comes to what integrity means in a contemporary and evolving Public Sector.

The Code reinforces our responsibility to serve the government of the day professionally, while maintaining the trust of future governments and the public. It also sets clear expectations for leadership which includes fostering a positive, safe workplace culture that encourages speaking up and addressing integrity concerns appropriately.

Integrity is at the heart of being a public servant. Our Public Sector is internationally recognised for its professionalism and integrity – a reputation built on strong standards of conduct. Each of us plays a vital part in upholding these standards and serving New Zealanders with integrity and professionalism.



Sir Brian Roche KNZM
Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service

Kupu Whakataki | Introduction

Te Tauākī Whanonga mō te Rāngai Tūmatanui
The Code of Conduct for the Public Sector (the Code) sets the standards of integrity and conduct across the **Public Sector**.

It provides a shared foundation and commitment to integrity and conduct and reinforces that our work for the public is unique, meaningful and based on trust.

The Code is for all **public servants** and sits at the heart of our work. **We** must know it and hold ourselves accountable to it, wherever we work. The Code outlines standards that should be applied with judgement and with regard to the role of the Public Sector in:

- acting with integrity and a spirit of service to the community
- supporting parliamentary democracy
- maintaining the trust and confidence of the public in all that we do, and
- supporting the Crown in its relationships with Māori under Te Tiriti o Waitangi | the Treaty of Waitangi, in the context of our work roles.

Note: **Bolded terms** are defined in the glossary.

Ngā Mātāpono, Ngā Pou Our Values and Our Principles

The Public Service **values** and **principles** form the framework for the standards in this Code.

Ngā Mātāpono | Our Values

Our values guide how we behave in every interaction. They are:

- **Trustworthy** – to act with integrity and be open and transparent
- **Respectful** – to treat all people with dignity and compassion and act with humility
- **Impartial** – to treat all people fairly, without personal favour or bias
- **Accountable** – to take responsibility and answer for our work, actions, and decisions
- **Responsive** – to understand and meet people's needs and aspirations.

Ngā Pou | Our Principles

Our principles are foundational pillars that guide how the Public Sector works to achieve its purpose. They are:

- **Political neutrality** – to act in a politically neutral manner
- **Free and frank advice** – when giving advice to Ministers, to do so in a free and frank manner

- **Merit-based appointments** – to make merit-based appointments (unless an exception applies under the Act)
- **Open government** – to foster a culture of open government
- **Stewardship** – to proactively promote stewardship of the Public Sector.

Te Hāngaitanga Scope and Application

The Code is issued by the Public Service Commissioner and sets **standards** of integrity and conduct under section 17(1) of the Public Service Act 2020 (the **Act**). It replaces the *Standards of Integrity and Conduct*, formerly issued under section 57 of the State Sector Act 1988.

The Code includes guidance that relates to the standards which is issued under section 19 of the Act. This guidance complements [He Aratohu | A guide for public servants on matters of integrity and conduct](#), in particular:

- *Guidance* on topics such as the Public Service principles, general elections, social media, and **sensitive expenditure**
- *Model standards* that set expectations for the Public Sector, including on **conflicts of interest**, speaking up, positive and safe workplaces and chief executive gifts, benefits, and expenses.

It is recognised that some of the standards may have limited relevance to parts of the Public Sector.

For example, some public servants have no direct interaction with Ministers or the public. Where that may be the case, we still need to consider how the standards may apply, given we all ultimately serve the Government and New Zealanders.

Application

Under section 17(2) of the Act, the Code applies to the **Public Sector** and all **public servants** (see glossary for definitions).

Under section 18(1) of the Act, the Public Sector and public servants must comply with the standards of integrity and conduct outlined in this Code.

Implementation

Public Sector organisations may apply additional or detailed standards to their organisation that are consistent with this Code – for example, through an organisation code of conduct adapted to their context. They are also expected to maintain policies and procedures in their organisations that support compliance with the Code.

Effective date

The Code takes effect on **30 March 2026**.

Intersection with legal requirements

If there is a conflict between this Code and legislation, the legislation will prevail. Public Sector organisations are subject to varying accountabilities as set out in legislation. The Code is not intended to undermine any of these legislative requirements.

Ngā Paerewa | Our Standards

Ngā Mātāpono | Our Values



1. We are honest and professional.
2. We act lawfully and use public power fairly and reasonably.
3. We avoid work and non-work activities that may compromise our ability to do our job.



4. We recognise and uphold the dignity of every person.
5. We contribute to a positive and safe workplace culture.
6. We act with care and respect, and do not behave in ways that are inappropriate or could harm others.



7. We act objectively and do not allow our personal beliefs, interests, activities, or relationships to impact our work.
8. We disclose our relevant interests and manage all conflicts of interest appropriately.
9. We never misuse our position for personal gain or to benefit or disadvantage others.
10. We decline gifts or benefits that place us under any actual or perceived obligation or influence.



11. We are open to scrutiny and can account for what we do.
12. We treat our organisation's information and resources with care and use them only for proper purposes.
13. We aim to improve the performance and efficiency of our organisation.



14. We take the time to listen to and understand people's circumstances and needs.
15. We aim to collaborate and engage meaningfully with New Zealanders to design policies and deliver services that meet their needs and aspirations.

Ngā Pou | Our Principles



16. We act in a politically neutral manner, which enables us to effectively serve current and future governments.
17. We respect the authority of the government of the day.



18. We support our organisation to provide Ministers with timely, robust, and unbiased advice.



19. We are fair and robust in our recruitment and selection processes and must give preference to the person who is best suited to the position.



20. We aim to make government information, decisions, and services transparent, accessible and available.



21. We manage and care for the Public Sector, so that it may continue to meet the needs of New Zealanders now and into the future.



Ngākau Pono Trustworthy



*Being trustworthy means being dependable,
acting responsibly and with the utmost integrity.*

Ngā Paerewa | The Standards

1. We are honest and professional.
2. We act lawfully and use public power fairly and reasonably.
3. We avoid work and non-work activities that may compromise our ability to do our job.

Being honest and professional

Being honest and professional means being open, telling the truth, and doing the right thing – even when it's hard. We take care in our work, are transparent about what we do and take responsibility for our actions and decisions. We are competent and professional and use skill and care in performing our roles and engaging with others. Being honest means we never engage in fraud, corruption or bribery.

Acting lawfully

We earn trust by following the law and acting with integrity. This means meeting our legal obligations – including those outlined in laws, regulations and contracts – while also considering what is ethical and the right thing to do. We consider available options to ensure outcomes are fair, reasonable and lawful. Acting lawfully includes enforcing laws and regulations to protect the safety, rights and wellbeing of New Zealanders.

Using public power fairly and reasonably

To be trustworthy, we must be both fair and reasonable when we exercise **public power**. This means our processes are fair, transparent and easy to understand, which can include:

- giving those who may be affected by our actions and decisions a reasonable opportunity to be heard, and providing reasons for our decisions

- making decisions without bias and predetermination, and
- acting reasonably by ensuring our decisions are justifiable and based on facts, evidence and clear reasoning.

Avoiding activities that may compromise our ability to do our job

Our organisations can be concerned about what we do at work or outside work, if it:

- compromises our ability to do our job
- impacts our ability to protect and advance the interests of New Zealand and New Zealanders, or
- is unlawful or harmful, breaches trust or confidentiality or is offensive.

We must act responsibly so our behaviour doesn't compromise the credibility or integrity of our organisation or the Public Sector. This may include carefully considering our use of social media and other online platforms or engaging in secondary employment or other public activity.



Whakarangatira Respectful



Being respectful involves recognising the inherent dignity of every individual, regardless of their background or circumstances.

Ngā Paerewa | The Standards

4. We recognise and uphold the dignity of every person.
5. We contribute to a positive and safe workplace culture.
6. We act with care and respect, and do not behave in ways that are inappropriate or could harm others.

Recognising and upholding dignity

We recognise and uphold the dignity of every person by treating them with respect and fairness. This means being considerate in our actions and words, regardless of someone's background, situation, beliefs, or role. We actively listen, value different perspectives and acknowledge the contributions of others. By doing so we serve the people of New Zealand in a way that is fair and respectful.

Positive and safe workplace culture

A positive and safe workplace culture is where people feel valued, supported and motivated to do their best work. It's shaped by shared values, attitudes, standards and behaviours that promote wellbeing and productivity. In this environment, we feel comfortable sharing ideas and concerns without fear of judgement or retaliation, and we are receptive and respectful of others in return. We all have a role in creating a positive workplace culture where everyone feels they belong. This is particularly important for those of us in a leadership role.

Inappropriate or harmful behaviours

We must be respectful when interacting with our colleagues and the public.

We never engage in bullying, harassment (including sexual and gender-based harassment), racism, unlawful discrimination, coercion, exploitation, or other forms of harmful or inappropriate behaviour. If we see anyone in the Public Sector acting in these ways we respond promptly and appropriately, unless it is unsafe to do so. We don't cover it up.

Any person affected by inappropriate or harmful behaviours has the right to choose whether to take action and their organisation should have regard to that choice before deciding what action it can or should take.



Ngākau Tapatahi Impartial



Being impartial means that our work, actions, and decisions are free from personal bias, or unjustified prejudice or preference.

Ngā Paerewa | The Standards

7. We act objectively and do not allow our personal beliefs, interests, activities, or relationships to impact our work.
8. We disclose our relevant interests and manage all conflicts of interest appropriately.
9. We never misuse our position for personal gain or to benefit or disadvantage others.
10. We decline gifts or benefits that place us under any actual or perceived obligation or influence.

Acting objectively

We act objectively when making decisions. Our decisions are fair and based on available facts and evidence, rather than our own personal opinions or biases. Acting objectively means considering all available and relevant information before making a judgement or decision.

Disclosing relevant interests and managing conflicts

We make sure our personal interests – like activities or relationships – don't interfere with our ability to perform our roles fairly. If something could be, or is, a **conflict of interest**, we tell our manager and work together to record and manage it. We recognise that circumstances change, so we will regularly discuss, review and update our interests.

Not using our position for personal gain or to benefit or disadvantage others

We never misuse our position for personal gain or unfairly advantage or disadvantage others in our work. We take care with spending and make sure funds and resources are used appropriately by our organisation. We ensure there is no misuse of funds or position to benefit ourselves, family, friends or other individuals, groups or organisations.

Gifts and benefits

Regardless of their value, we should generally decline gifts or benefits that place us under any actual or perceived obligation or influence. Gifts should only be accepted in limited situations that are clearly defined. For example, accepting a gift such as koha or other cultural gifting may be appropriate where declining could cause offence, be considered inappropriate, or harm relationships with our partners or stakeholders.

We follow our organisation's policies, including keeping records of all gifts or benefits offered to us, declined or accepted. We must act with the highest integrity if receiving or giving any gifts, benefits or hospitality, as these can be perceived to unfairly influence our work.



Whaiwhakaaro Accountable



Being accountable means we are responsible for what we do. We work to the best of our abilities and can answer for our work, actions, and decisions.

Ngā Paerewa | The Standards

11. We are open to scrutiny and can account for what we do.
12. We treat our organisation's information and resources with care and use them only for proper purposes.
13. We aim to improve the performance and efficiency of our organisation.

Being open to scrutiny and accountable for what we do

We must be able to explain our decisions and actions to the people affected by them and to the public. We can do this through:

- keeping accurate records of our decisions and actions
- providing information about our decision-making to individuals, and
- providing authorised information on organisation websites, other digital channels like social media, and in official information responses.

Even when we work carefully, mistakes may happen. If we make a mistake, we are open about it, take responsibility for it, fix it quickly and share what we've learned so others can improve too.

Treating information with care

We handle information responsibly. This means only collecting what we need, using it for the right reasons and storing it securely.

We must only obtain and use information for proper purposes. We comply with all legal and other requirements about information, including privacy, confidentiality, commercial sensitivity, classifications and national security, official information, and third-party access.

We never make deliberate and unauthorised disclosures or 'leak' non-public information that is in our care, or that we have access to. We must be careful about who we share information with and safeguard sensitive government information.

Treating resources with care, including using public money responsibly

We are responsible for using public money and resources wisely and the public trusts us to do so. We act prudently, honestly and responsibly when dealing with public funds within our control. We must also use our work time wisely and only use our resources for proper purposes, while safeguarding them against waste, abuse or neglect.

We follow government spending rules and financial management legislation, keep adequate records, and use fair and transparent procurement processes to ensure value for money.

Aiming to improve the performance and efficiency of our organisations

We aim to improve our organisation's performance and efficiency by looking for ways to improve what we do and how we work. We can do this by:

- collaborating effectively with others
- working to the best of our abilities
- embracing innovation, for example, responsible use of new technologies
- identifying ways to streamline processes and deliver timely services, and
- providing opportunities for feedback from the people we interact with to help improve our work.



Āta Whakarongo Responsive



Being responsive is about active engagement and collaboration with people, groups, and communities.

Ngā Paerewa | The Standards

14. We take the time to listen to and understand people's circumstances and needs.
15. We aim to collaborate and engage meaningfully with New Zealanders to design policies and deliver services that meet their needs and aspirations.

A people-centred approach – listen and understand

We take time to listen and understand people's needs so we can respond with the right advice and services. This also means providing people with useful information and support and delivering services that are timely, easy to use/access and effective.

We build trust by being responsive and intentional in our interactions. We adapt our approach to the situation and any changes in a person's circumstances or context. We also seek feedback so we can continue to improve.

Collaborate and engage on policy and service design and delivery

When designing policies and services, we do our best to identify relevant stakeholders, partners and communities for collaboration. We aim to provide them with information and opportunities to engage with us so we can understand their views, needs and aspirations. Doing this helps us design services that work well for different people and communities.

Collaboration and engagement help us to improve outcomes for New Zealanders. We can achieve this by:

- sharing knowledge, fostering innovation, and learning from each other
- supporting better coordination and delivery, and
- being flexible and adapting to change.



Te Noho Taiapa Political Neutrality



Political neutrality¹ is about serving New Zealand's democratically elected government to the best of our professional abilities, irrespective of our political opinions.

Ngā Paerewa | The Standards

16. We act in a politically neutral manner, which enables us to effectively serve current and future governments.
17. We respect the authority of the government of the day.

Public servants have the same rights to freedom of expression and political activity as other New Zealanders under the New Zealand Bill of Rights Act 1990. We must exercise these rights in a way that doesn't affect our ability to do our work in a politically neutral way. This doesn't prevent us from all political participation, but there are some things we should think about when engaging in political activity that might impact our role as a public servant. These include:

- the seniority of our role
- the nature of our work, and
- the scope and scale of the proposed political activity.

Political neutrality when performing our roles at work

Being politically neutral helps keep the work of Ministers (setting policy direction, making decisions, and advocating for government policies) and our work (providing advice, implementing policy, and delivering public services) distinct.

Political neutrality requires us to be particularly careful with:

- our approach to advertising and publicity

- engaging with Members of Parliament and political parties
- our use of organisational social media and media comment
- what we do and say around the general election period, and
- appearing before select committees.

Political neutrality for public servants as individuals

Being politically neutral at work doesn't generally stop us from being politically active outside of work in our own time. But when we're being politically active outside of work, we must not represent or give the impression that we represent our organisation or disclose or use confidential government information. Sometimes there may be circumstances where it's difficult to reconcile your personal political interests with performing your Public Sector role.

In particular, those of us who are senior public servants or work closely with Ministers should consider public perception and exercise additional judgement and care when being politically active outside of work.

¹ The guidance in this section reflects more comprehensive guidance on political neutrality contained in Te Kawa Mataaho | [Guidance on Public Service Principles](#)

Political neutrality for members of a profession or a statutory role

If we are **members of a profession** or have a statutory role that involves public advocacy, we need to fulfil our professional obligations or statutory role while staying politically neutral. We have the same rights to political activity as other public servants while also having the same requirements to exercise those rights in a way that doesn't affect our ability to do our work in a politically neutral way.

Professional codes of ethics or obligations – such as those for medical, accounting, social work and legal professions – apply alongside this Code. If there is inconsistency or conflict between our professional obligations and this Code, we need to raise it with our organisation.

Members of a profession may wish to comment publicly in a professional capacity on matters within their areas of expertise or experience including on work-related matters. When considering this we should:

- be open and honest with our organisation, and consider any legal requirements that may apply

- not enter into debate criticising or advocating for particular politicians or political parties, and
- exercise care if commenting on Government or party-specific policies.

Our organisations should have policies and procedures that outline what members of a profession should do if they wish to make a public comment. If we are a spokesperson for a professional body, our comments should clearly be made on behalf of that professional body.

If our professional member or statutory role obligations are also legislative requirements, those will prevail over this Code, although any inconsistency should still be raised with our organisation.

Respecting the authority of the government of the day

Through our work we support the government of the day to develop and implement its policies. We must respect the authority and decisions of the Government and Ministers as elected representatives. We must act in a way that maintains the trust and confidence of the Government while ensuring the same relationship can be established with future governments. We must follow lawful instructions from Ministers, irrespective of our own political opinion.



Tohutohu Hāngai Free and Frank Advice



Free and frank advice is about organisations providing advice to Ministers without fear or favour, using our best professional judgement.

Te Paerewa | The Standard

18. We support our organisation to provide Ministers with timely, robust, and unbiased advice.

Providing free and frank advice

Free and frank advice supports Ministers to make good decisions and gives the public confidence that those decisions are well informed. Our organisational **leaders** are responsible for ensuring that free and frank advice is given to Ministers by their organisations.

Providing free and frank advice is about focusing on our Minister's objectives while being honest, politically neutral, free from undue influence, and constructive about the best ways to achieve their objectives. This may mean we need to respectfully and professionally challenge our Minister's understanding or initial preference. We aim to include a range of perspectives in our advice, canvassing options and informing Ministers about the pros, cons, uncertainties and consequences of the decisions they are being asked to make.

If our job involves providing advice directly or indirectly to Ministers, we need to be mindful of context, including demonstrating awareness of, and responsiveness to, the priorities of the government of the day. Free and frank advice means that we provide the relevant information, evidence and analysis needed to deliver clear, objective and effective advice. We take a 'no surprises'² approach by promptly advising on significant matters within our Minister's portfolio responsibilities, particularly where those may be controversial or may become the subject of public debate.

² See: Solicitor-General's Guidance (2023) [Chief Executives and the 'No Surprises' Principle](#); The [Cabinet Manual](#) (2023) also outlines requirements under the 'no surprises' principle.



Kopounga Whai-painga Merit-based Appointments



Merit-based appointments are an essential cornerstone of our professional and politically neutral Public Sector.

Te Paerewa | The Standard

19. We are fair and robust in our recruitment and selection processes and must give preference to the person who is best suited to the position.

Making merit-based appointments

Merit-based appointments help us recruit, attract and select the best people to work in the Public Sector, building a workforce that has the experience and expertise to improve the lives of New Zealanders.

Those of us who are leaders need to ensure our organisation upholds the principle of merit-based appointments and must make merit-based appointments unless an exception applies under the **Act**.

This means if we have a role in employee recruitment, promotion and selection, we must:

- identify the skills, responsibilities and effort necessary to perform the role
- ensure appointments are made through a fair, open and contestable process, and are free from patronage, favouritism or prejudice, and
- follow our organisation's internal policies and ensure independence, confidentiality, fairness and transparency in the appointment or promotion process.



Kāwanatanga Tuwhera Open Government



Open government strengthens democracy by improving transparency and understanding of how government works, facilitating public participation and accountability of the Government to its people.

Te Paerewa | The Standard

20. We aim to make government information, decisions, and services transparent, accessible and available.

Our roles in open government

Open government means we aim to enable public participation by being proactively transparent about our work and how government functions. Where possible we look for ways to improve the accessibility and availability of information and services.

There are rules, frameworks and processes that support open government and transparency, such as:

- access to information through the Official Information Act 1982 or Privacy Act 2020, and proactive release of information
- consultation frameworks to support public feedback
- co-designing services with communities, and
- how we provide advice, for example, accessible formats.

We should use these frameworks where relevant to our work and identify and discuss opportunities to be open with our organisation.

While being open is important, we must balance transparency with the legitimate need to keep some information confidential, for example, privacy concerns or information under active consideration of Ministers. Disclosure of government information must follow our organisation's information management policies and procedures and comply with the law.



Kaitiakitanga Stewardship



Stewardship is a proactive duty of care for something that belongs to or exists for the benefit of others, now and into the future.

Te Paerewa | The Standard

21. We manage and care for the Public Sector, so that it may continue to meet the needs of New Zealanders now and into the future.

Our stewardship role

Stewardship helps to protect the Public Sector now and into the future. Where relevant to our role, we must adopt forward-thinking planning and management practices in our work to:

- preserve and protect institutional knowledge and information, and use our assets and resources wisely
- help meet our organisation's stewardship responsibilities, including financial management, policy and regulatory stewardship, performance and sustainability
- support our organisations to have established plans that safeguard the continuity of critical services, and
- support Ministers to act as good stewards under the Act.

Long-term workforce planning and capability

Where relevant to our role, we need to anticipate, manage and plan for our future workforce so we can meet future challenges. This includes:

- encouraging knowledge sharing and retention of expertise, and supporting skills acquisition and career progression across the Public Sector
- supporting our chief executives or governance boards to develop and maintain the capability to engage with Māori and understand Māori perspectives, and
- developing long-term capability and ensuring this is embedded in our teams and processes.

Te ū ki tā tātou Tauākī **Abiding by our Code**

The Code should be read in full as the meaning and requirements for each section overlap. The standards, values, and principles should not be read as separate or isolated from the rest of the Code.

As a public servant, you must:

- ensure you read, understand, and abide by the Code, and
- adhere to any additional behavioural expectations set by your organisation.

As a leader, you must also:

- support your team and colleagues' understanding of how to comply with the Code
- encourage your team and colleagues to ask questions and raise any integrity or conduct concerns by speaking up
- deal with integrity or conduct concerns appropriately, and where applicable to your role, enforce the Code consistently, and
- foster a positive, safe, and ethical workplace culture in your organisation.

As an organisational leader of a Public Sector organisation, you are responsible for:

- the integrity and conduct of your employees, which includes ensuring they have read and understood this Code and agree to abide by it
- ensuring your organisation's code of conduct (if relevant) and policies and procedures are consistent with this Code
- enabling your employees to complete Code of Conduct learning and to regularly renew that learning, and
- ensuring your employees can obtain appropriate advice on integrity issues, including possible conflicts of interest.

Ngā Takahitanga o te Tauākī **Breaches of the Code**

Failure to comply with this Code may constitute misconduct or serious misconduct and could result in disciplinary action being taken by your organisation up to and including dismissal. Breaches of law may also result in civil or criminal penalties.

The Code is not intended to outline every possible scenario or list every behaviour or action that could be a breach. Unsatisfactory behaviour or actions not specifically listed in this Code may still constitute a breach, where they are found to undermine the Public Service values and principles. Public servants are required to exercise careful judgement that can withstand scrutiny and should seek advice early if unsure about any of the Code's requirements.

Whakaputaina he kōrero, whakapuakina ngā āwangawanga **Speak up and raise concerns**

Speaking up promptly about suspected wrongdoing shows that we care and have the courage to do the right thing. Anyone can report concerns such as behaviour or activities they feel may breach this Code to the relevant Public Sector organisation.

The process for reporting **serious wrongdoing**, and the protections available to those who report it, is outlined in the Protected Disclosures (Protection of Whistleblowers) Act 2022. This includes a list of appropriate authorities to make a report to. Criminal or unlawful activity should be reported to the NZ Police or other relevant enforcement agencies (for example, the Serious Fraud Office).

If you've raised concerns about a public servant or a Public Sector organisation and you feel the concerns haven't been appropriately managed or resolved, or you feel unsafe raising the concerns with the relevant organisation, you can report them to Te Kawa Mataaho Public Service Commission:

enquiries@publicservice.govt.nz

Rārangi kupu | Glossary

In this Code, unless the context otherwise requires –

Act means the [Public Service Act 2020](#).

Conflict of interest means any situation where a person's duties or responsibilities as an employee of, or a contractor to, a Public Sector organisation conflict, or could be seen to conflict or interfere with their personal or other interests or activities. Conflicts of interest can be actual, perceived or potential.

Leader means any person who is recognised as a leader in their organisation and includes senior leaders and those with managerial responsibilities.

Members of a profession means members of an occupational group with a registration requirement under an Act for the individuals who work or practise in the occupational group.

Our means things that belong collectively to public servants and, where the context requires, includes the Public Sector.

Principles means the public service principles set out in [section 12 of the Act](#).

Public power means the authority and ability of the Public Sector and public servants to make decisions and manage public resources for the benefit of everyone. It must be used in ways that serve the public good.

Public Sector means the organisations to which this Code applies, specifically:

- a) Public service agencies (departments, departmental agencies, interdepartmental executive boards, interdepartmental ventures) and Crown agents
- b) Crown entities (other than Crown agents and excluding tertiary education institutions and school boards, and Crown Research Institutes and their subsidiaries)
- c) Companies named in Schedule 4A of the Public Finance Act 1989, and
- d) the Parliamentary Counsel Office.

Public servant means any person to whom this Code applies, specifically anyone working in the Public Sector, e.g., employees and contractors. By way of explanation, this does not include Board members of Crown entities or Directors of Public Finance Act 1989 Schedule 4A Companies, as they have their own codes of conduct issued by the Public Service Commissioner.

Public Service has the meaning given in [section 10 of the Act](#).

Sensitive expenditure means any spending by an organisation that could be seen to be giving private benefit to staff additional to the business benefit to the organisation.

Serious wrongdoing has the meaning set out in [section 10 of the Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#).

Standards means the minimum standards of integrity and conduct set by the Public Service Commissioner under [section 17 of the Act](#) as outlined in this Code.

Values means the public service values set out in [section 16 of the Act](#).

We and **us** when used in this Code means all public servants and, where the context requires, also includes the Public Sector.

Your means things that individually belong, or apply, to public servants and **you** has a corresponding meaning.

Rārangi kupu mo te reo Māori

Te reo Māori Glossary

Ngākau Pono is the te reo Māori descriptor for the *trustworthy* value. It best describes dependability and integrity. In separating the two words, *ngākau* is often translated to heart or matters of the heart and *pono* to be true or truthful, honest, and sincere.

Ngākau Tapatahi is the te reo Māori descriptor for the *impartial* value. It is a translation for impartiality, integrity, being neutral, fair, unbiased, even-handed or non-partisan.

Whaiwhakaaro is the te reo Māori descriptor for the *accountable* value. Rather than a translation, it describes the action of thinking carefully, being open to scrutiny and acting responsibly.

Whakarangatira is the te reo Māori descriptor for the *respectful* value. The translation describes treating people with dignity, honour, or to revere or enable.

Āta Whakarongo is the te reo Māori descriptor for the *responsive* value. It describes the act of listening attentively. *Āta* translates to deliberately, purposefully, intentionally, with care. *Whakarongo* is commonly described as listening and hearing.

Te Noho Taiapa is the te reo Māori descriptor for the *political neutrality* principle. It is a *kīwaha* and directly translates to ‘sit on the fence.’ For clarity, this does not mean that public servants cannot hold and express political opinions. However they should consider political neutrality as part of their role as a public servant and the [Public Service Principles guidance](#) within this context.

Tohutohu Hāngai is the te reo Māori descriptor for the *free and frank* principle. Tohutohu is a translation for ‘to advise.’ Hāngai is a translation for directly and is commonly used in the *kīwaha* ‘me hāngai te kōrero’ which can be translated to keeping to the point or ‘don’t beat around the bush.’

Kopounga Whai-painga is the te reo Māori descriptor for the *merit-based appointments* principle. Kopounga is a translation for appointee, appointment or successful candidate. Whai-painga is a translation for merit-based or to be of value or benefit.

Kāwanatanga Tuwhera is the te reo Māori descriptor used for *open government*. Kāwanatanga is the translation for government and tuwhera is to open or be open.

Kaitiakitanga is the te reo Māori descriptor for *stewardship*. Kaitiakitanga in its simplest form is translated to guardianship, stewardship or trusteeship.

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New Zealand Government
Te Kāwanatanga o Aotearoa



Ngā Pou Principles Guidance



Te Kawa Mataaho
Public Service Commission

Te Kāwanatanga o Aotearoa
New Zealand Government

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1

Ngā Pou Principles

1.1 New Zealand's public service principles are central to the way we deliver services and outcomes for New Zealanders. They help to preserve public trust and confidence in our ability to serve current and future governments. The five principles are:

- politically neutral
- free and frank advice
- merit-based appointments
- open government
- stewardship

Kupu whakataki Introduction

- 1.2 Ngā Pou | Principles guidance provides information about the public service principles and the role of agencies, their leaders and public servants.
- 1.3 The Public Service Commissioner has issued this guidance under [section 19](#) of the Public Service Act 2020.
- 1.4 This guidance is part of He Aratohu – Integrity and Conduct guide and should be read in conjunction agencies' own policies and procedures. Where appropriate, links to related content contained within He Aratohu – Integrity and Conduct guide have been included.
- 1.5 This guidance is not exhaustive and sits alongside any relevant legislative requirements. It is intended to complement those requirements but not replace them. In the event of inconsistency, the legislative requirements prevail.



Who this guidance is for

- 1.6 The public service principles and agencies' responsibilities are set out in the Public Service Act 2020. Under [section 12](#), public service chief executives¹ and boards of Crown agents have a statutory responsibility to ensure the agencies they lead uphold the principles when carrying out their functions². Public servants support their leaders in performing this responsibility.
- 1.7 This guidance is being issued to all agencies that fall within the Public Service Commissioner's integrity and conduct mandate. This means this guidance applies to all of the agencies listed below.

Agencies whose leaders have a statutory responsibility under the Public Service Act:

- Public service departments and departmental agencies
- Crown agents

Other agencies within the Public Service Commissioner's integrity and conduct mandate:

- Statutory Crown entities - Autonomous Crown entities and Independent Crown entities
- Crown entity companies (excluding Crown Research Institutes and their subsidiaries)
- Companies named in Schedule 4A of the Public Finance Act 1989,
- Parliamentary Counsel Office, and
- Any other entities that guidance may be issued to from time to time.

- 1.8 The agencies that this guidance applies to are referred to as the 'public sector' for the purposes of this guidance.

Other agencies

- 1.9 This guidance does not apply to agencies outside the Public Service Commissioner's guidance mandate. These agencies include:
- New Zealand Defence Force
 - New Zealand Police
 - Crown Research Institutes and their subsidiaries
 - Public Finance Act 1989 Schedule 4 organisations
 - Public Finance Act 1989 Schedule 5 Mixed ownership model companies
 - State-owned enterprises
 - School Boards of Trustees
 - Tertiary education institutions, such as universities

However, anyone can use this guidance to know more about the public service principles and integrity and conduct obligations.

- 1.10 An up-to-date list of all central government organisations can be found at: [Te Kawa Mataaho Public Service Commission - Central Government organisation list](#).

¹ Public service chief executive means a chief executive of a department or departmental agency or a functional chief executive (Public Service Act 2020, [section 5](#))

² Public Service Act 2020, section 12 (2) and section 12 (6)



2

Te Noho Taiapa | **Political Neutrality**

We act in a politically neutral manner.

What is political neutrality?

- 2.1 Political neutrality is about serving New Zealand's democratically elected government to the best of our professional abilities, irrespective of our own personal political opinions.
- 2.2 A politically neutral and professional public service was first introduced through the Public Service Act 1912. It has remained a fundamental principle of our system of government since then.

Why is political neutrality important?

- 2.3 Political neutrality is the foundation upon which:
 - a. **We serve current and future governments.** We maintain the capability and institutional memory that allows us to serve governments over time. Political neutrality preserves our ability to serve current and future governments, irrespective of its political composition.
 - b. **We support the trust and confidence of Ministers and the Government** and help them to develop and implement their policies. Ministers must have confidence that we will provide trusted service to New Zealand and will not use our positions to pursue

our own political interests or objectives. Remaining politically neutral helps us to maintain the distinction between the work of Ministers in making decisions and advocating for policies, and our work in providing advice and delivering services.

- c. **We maintain the trust and confidence of the public** in the Public Service as an institution. The public needs to know that regardless of which political party or parties are in power, the Public Service will continue to loyally perform its function for New Zealand. To prevent this trust from being undermined, we need to be careful to remain politically neutral in the public statements we make and the actions we take on behalf of our agencies.

What are our roles?

- 2.4 Our leaders have a responsibility to ensure that they and the agencies they lead uphold the principle of political neutrality. We need to support our leaders in performing that duty, and each of us needs to make sure that we do not act in a way that would undermine the principle.
- 2.5 These obligations do not generally prevent us from being politically active in our private lives. Expressing our personal political opinions outside of work in our own time is unlikely to undermine the principle of political neutrality, provided that we do not:
 - represent or give the impression that we represent our agency; or
 - disclose or utilise confidential government information.

- 2.6 For those of us who are senior public servants or who work closely with Ministers, additional caution is required and is outlined further in the practical guidance below.

Practical guidance

Political neutrality for public servants as individuals

Individual rights, freedoms and responsibilities

- 2.7 Public servants have the same rights to freedom of speech and political activity in their private lives as other New Zealanders under the New Zealand Bill of Rights Act 1990. Like other New Zealanders, public servants are strongly supportive of good government and care about the issues affecting New Zealand.
- 2.8 Public servants also have a responsibility to act in a way that enables their agency to maintain the confidence of its current Minister and of future Ministers³.
- 2.9 Public sector agencies must ensure that they respect the political rights of their employees and do not unreasonably impinge on these rights. At all times, there must be a proper balance between respect for public servants' democratic and civil rights and the public interest in having a politically neutral and effective Public Service.

³ [Cabinet Manual 2023](#) paragraph 3.72

Public servants engaging in political activity

- 2.10 Many public servants have their own political views and support particular political parties. Being politically neutral at work does not generally stop public servants from being politically active outside work. For most public servants, participating in politics outside the workplace is unlikely to breach their agency's political neutrality obligations.
- 2.11 In general, there is nothing wrong with having interests or activities outside work that may create a conflict with your agency role, so long as they are identified and appropriately managed. However, there may be circumstances where it is difficult to reconcile personal political interests with performing a public sector role. Te Kawa Mataaho Public Service Commission can help in these situations.
- 2.12 Public servants involved with a political party, or who intend to comment publicly on political matters, including via social media, need to be careful that they do not:
- reveal advice given to Ministers
 - disclose information they are not authorised to disclose
 - purport to express an agency view when they are giving their own view
 - criticise government policy with which they have been professionally involved.

Things to think about

2.13 There are some things to think about when engaging in any political activity outside work that might impact your role as a public servant. Whether a particular political interest or activity might impact on a work role, and whether it can be managed, may depend on the:

- seniority of the role
- nature of the role
- scope and scale of the political activity.

The seniority of the role

2.14 Working in the public sector is a privilege, involving ready access to government information, status and influence. The more senior the role within the structure of the agency, the greater that person's profile, influence and proximity to Ministers and government is likely to be. Some public servants will need to exercise careful judgement and care when considering political activity outside of work and consider public perceptions if they:

- hold a senior position within an agency
- have regular direct contact with Ministers or represent a public face of their agency
- work in a Minister's office
- are actively engaged in providing advice to Ministers on an issue that is the subject of contested political activity.

2.15 The greater the seniority and influence, the less appropriate political activity outside work may be.

The nature of the role

2.16 Any potential for overlap or conflict will depend on what the public sector role involves and the requirements of the role. Roles that are more likely to be impacted by a public servant's political activity outside work include those that involve regular, direct contact with Ministers, communication on behalf of the agency or advising Ministers on politically topical issues.

The scope and scale of the political activity

2.17 Voting in an election is a democratic right and is always encouraged. However, political expression that involves breaching the law or a code of conduct is never acceptable. For example, the unauthorised disclosure of government information or the misuse of government resources for political purposes is not acceptable.

2.18 Public servants should consider whether the scope and scale of the political activity could interfere with their work duties or the political neutrality of the public sector. Questions they could ask are whether the political activity (including the way it is conducted):

- has a negative impact on the confidence of Ministers and the public in the political neutrality of the public sector
- interferes with duties or workplace relationships
- involves a serious breach of the Standards of Integrity and Conduct, for example, involves the unauthorised release of data, other government information, private or personal information, government policy, financial information or criminal conduct
- brings into question someone's ability to perform their role in the eyes of the public
- causes some other kind of harm to the legitimate interests of the public sector.

Public servants as members of unions

2.19 Public servants have the right to join and be active in lawful organisations including trade unions. Participating in the lawful activities of unions within government workplaces is acceptable at all times, and managers should work constructively with union representatives to enable this.

2.20 As a consequence of this right, it is anticipated there will sometimes be an expression of political views inside the workplace. Political expression and participation should normally be undertaken in the individual's own time. To the extent that union activity leads to political expression within the workplace, this should be carried out in a reasonable way and respect normal business operations. These activities should not be visible to the general public.

2.21 Distributing and discussing union material in the workplace does not breach a public servant's obligations around political neutrality. It is important that public servants continue to carry out their job without letting their personal interests or views influence their advice or behaviour and act without bias towards one political party or another.

Public servants as members of a profession or with a statutory role

2.22 Public servants who are members of professions with their own professional obligations or code of ethics need to consider how these fit with their political neutrality responsibilities as public servants.

- 
- 2.23 For example, members of a profession may wish to comment publicly in a personal capacity on work-related matters within their areas of expertise. Members should be open and honest in their actions. This will involve raising the matter first with the agency and not disclosing official information that has not been made public. Public servants in this situation should not enter into debate criticising or advocating for particular politicians or political parties or comment on particular political party policies.
- 2.24 Public servants who have a statutory role that involves public advocacy need to consider how to fulfil this role while maintaining political neutrality. This will involve ensuring their comments focus on their statutory role rather than political advocacy. They too should not comment on particular political party policies. Statutory duties that public servants have as members of a profession prevail over these responsibilities, but the public servant should raise any inconsistency with their agency.
- 2.25 A public servant who has a spokesperson role with a professional body or union has fewer constraints when making comments that are critical of the Government or of the management of the agency. It is important in these cases that comments are clearly made on behalf of the professional body or union.

Personal use of social media

- 2.26 Public servants are free to use social media in their private lives. The Standards of Integrity and Conduct, political neutrality obligations and agencies' own policies apply to all media communications outside work, as with other forms of communication. There should be a clear separation between public servants' work role and their personal use of social media. See: [Guidance: Public servants' personal use of social media](#).

Use of agency resources

- 2.27 Agency resources and premises should not be used for activities that could be regarded as party political. Agencies may have a 'reasonable personal use' policy but agency resources such as printers, office supplies and email systems should not be used to support the private political activities of individuals.
- 2.28 Public servants should not provide their workplace contact details to political parties.

Public servants and select committees

2.29 Public servants have the same political rights as other members of society, including the right to make submissions to, and appear as witnesses before, select committees. Public servants should be careful, however, that their attendance in a personal capacity is consistent with their professional obligations to the government of the day and that any conflicts of interest are able to be managed. In particular, public servants who appear in a private capacity should:

- make it clear to the committee that they appear in a private capacity
- not use information they have received in confidence through their work role in the submission
- avoid commenting on policy issues related to their own agency or which they have been professionally associated with
- advise their manager that they will be attending.

Political neutrality for public servants in their official role

- 2.30 The Public Service serves the government of the day and successive governments, regardless of their political composition. This means public servants must always act in a way that maintains the confidence of the current government and ensure the same relationship can be established with future governments.
- 2.31 It is never acceptable for a public servant acting in an official capacity to express their personal political views in a way that raises questions about their ability to perform their role in a politically neutral way. Expressing such views can impact the confidence of Ministers or the public in the political neutrality of the Public Service.
- 2.32 Public sector agencies are accountable to their Minister and usually need to work through their Minister when engaging with the legislative branch including Parliament, Members of Parliament and other political parties.

Engaging with Members of Parliament

- 2.33 Members of Parliament (MPs) may interact with agencies from time to time as representatives of constituents in their electorate. Generally, public servants should respond to any approach by an MP in the same way they would respond to an approach by a member of the public.

- 2.34 Many requests for information or services over and above what would normally be provided to the public (e.g. a visit to an agency's premises or a substantial briefing) must be referred to the agency's chief executive. The chief executive will first consider any risks to political neutrality. They can decline a request if the proposal is likely to undermine the political neutrality of the agency, or if a request is otherwise inappropriate for the agency. Following this consideration, the chief executive will refer the request to the relevant Minister, along with any appropriate advice, for their consideration.

Engaging with political parties

- 2.35 From time to time, Ministers may ask officials to attend a meeting of a caucus committee or caucus or provide a briefing to a member or members of Parliament, particularly to support Ministers in briefing their colleagues about a current issue or proposed legislation. Public servants should not attend a caucus meeting of a political party represented in the House without first obtaining the agreement of the agency chief executive and the responsible Minister. Public servants are responsible to their Minister, not to caucus, and should only attend such meetings to support their Minister.
- 2.36 Before attending such a meeting, public servants should obtain clear instructions from their Minister and chief executive on the purpose of their attendance. Public servants should limit their involvement to providing factual information or expert opinion, while avoiding any comment that could be construed as political.
- 2.37 Public servants should not undertake work at the direction of caucuses, nor should they service caucuses or caucus committees. Policy work carried out by officials should not be used to develop party political material or be labelled as party policy. Any instructions that might emerge from caucus discussions should be given to the agency only by the responsible Minister.
- 2.38 Government policy should generally be confirmed through the Cabinet and Cabinet committee decision-making process and then announced by the Minister in their official capacity. In addition:
- Agency premises and resources, including their staff (e.g. photos of or communication with public servants), should not be used for political party purposes.
 - A public servant should not attend a political party event in their official capacity.
 - Public servants should support Ministers as usual in events such as programme launches but should avoid any political aspects of such an event.

Engaging with select committees

- 2.39 Select committees are the main point of contact between public servants and Parliament. Public servants may appear before select committees as advisers (e.g. when the committee is considering a Bill) or as witnesses (e.g. when the committee is scrutinising an agency's Estimates, reviewing agency performance or undertaking an inquiry). In any case, public servants appear in support of Ministerial accountability, and they are therefore subject to Ministerial direction in terms of questions to be answered and information to be supplied. See: [Guidance: Officials and Select Committees – Guidelines](#).

Advertising and publicity

- 2.40 The Guidelines for Government Advertising define government advertising as “any process for which payment is made from public funds for the purpose of publicising any policy, product, service or activity provided at public expense by the government”. This definition is intentionally broad and can include an authorised public servant speaking to members of the public, a consultation document or putting information out through social media.

- 2.41 Public sector agencies undertake advertising and publicity. There are legitimate reasons for doing so, including informing the public about government policies, the services available, and their rights and responsibilities. Public funds should not be used to pay for publicity for party political purposes.
- 2.42 There must be a clear purpose and an identified and justifiable information need for government advertising and publicity. It must be presented in a manner that is accurate, factual, truthful, fair, honest, impartial, lawful and proper, and comply with all relevant legislation and government policies. See [Guidance: Guidelines for Government Advertising](#) and [Guidance: Interpreting and Applying the Guidelines for Government Advertising](#).

Official use of social media

- 2.43 Agencies must develop a social media policy that sets out how they will use social media, who is authorised to use it in an official capacity, and key responsibilities for using it including under the Standards of Integrity and Conduct.
- 2.44 There should be a clear business purpose for an agency's use of social media that is linked to its role and functions. See: [Guidance: Public servants' official use of social media](#).

Media comment

- 2.45 When corresponding with the media, agencies must take care to ensure that communications material is factual and politically neutral, the Minister is kept informed and information and advice requests are handled promptly by the most appropriate person, agency or Minister.
- 2.46 Public servants need to identify whether issues are primarily political or operational and whether they are most appropriately handled by the Minister or by the agency. Political matters relate to the functions of the Minister. Ministers are responsible for determining and promoting policy, defending policy decisions and answering in the House on both policy and operational matters.
- 2.47 Chief executives are responsible for operational matters. Ministers are generally not involved in agencies' day-to-day operations.

Official Information Act requests

- 2.48 [Chapter 8 of the Cabinet Manual](#) (see paragraphs 8.53 to 8.57 in particular) includes guidance on the release of official information, including the involvement of Ministers in a release. An agency may consult its Minister about any request for official information received. An agency should consult its Minister if the request relates to Cabinet material (as this is related to their activities as a Minister).
- 2.49 Upon being consulted, a Minister may take the view that information an agency considers suitable for release, should not be released. In such cases, agencies should consider whether there is an obligation to transfer the request to the Minister under [section 14 of the Official Information Act 1982](#). The obligation to transfer will arise where the requested information is held by the Minister (but not the agency) or is more closely connected with the Minister's functions. The only reasons for withholding official information are those specified in the Act.
- 2.50 Public servants should not become involved in assessing the political consequences of releasing information. An agency should advise its Minister if it intends to release any information that is particularly sensitive or potentially controversial, in accordance with the "no surprises" principle. A notification for this purpose is not the same as consultation and should not unduly delay the release of information. See: [Agency Guidance: Minister and Agency Official Information Requests](#) and [Solicitor-General's 'No Surprises' Guidance](#).

Political neutrality and the election period

- 2.51 The normal conventions of political neutrality continue to apply at the time of a general election or a by-election. However, there can be heightened sensitivity around political neutrality and greater scrutiny on the actions of the public sector at this time, so some extra care is required.
- 2.52 Te Kawa Mataaho Public Service Commission publishes guidance covering the period before, during and after a general election. Much of this guidance has more general application outside of the election period as well. Topics include public servants at work, public servants outside work, responsibilities of public sector agencies, advertising, publicity and the media and Government processes before, during and after an election. See [Guidance: General Election Guidance](#).

3

Tohutohu Hāngai Free and Frank Advice

We give free and frank advice to Ministers.

What is free and frank advice?

- 3.1 Free and frank advice is about agencies providing advice to Ministers without fear or favour, using our best professional judgement. By doing this, we strengthen the integrity and performance of New Zealand's system of government.
- 3.2 Free and frank advice focuses on the decision-maker's objectives, while also being honest, politically neutral, constructive and free from undue influence. This is particularly important for us to remember when challenging the decision-maker's understanding and initial preference.

Why is free and frank advice important?

Free and frank advice is the foundation upon which:

- a. **We support Ministers to make better decisions.** In giving free and frank advice, we make sure that Ministers are individually and collectively informed about the pros, cons, uncertainties and potential consequences associated with the decisions that they are being asked to make. We respect the decisions and the mandate of Ministers as elected representatives.

- b. **We give the public confidence that Ministers' decisions are well informed.** The public relies on us to give our best advice and to provide Ministers with a range of options. Good policy decisions, informed by free and frank advice, optimise services and results for the people in New Zealand now and into the future.

What are our roles?

- 3.4 Our leaders are responsible for ensuring that free and frank advice is given to Ministers by their agencies. We need to support our leaders to make sure that they have access to all the information, evidence and analysis to do that. How we provide that support will depend on the nature of the job that we do.
- 3.5 If our job involves providing advice directly or indirectly to Ministers, we need to be mindful of the wider context. This includes being aware of, and responsive to, the priorities as determined by the government of the day.
- 3.6 Our advice needs to include all relevant information. This requires us to understand both what has been requested and what is required to enable Ministers to achieve their desired results for people in New Zealand. It is important to keep both in mind.
- 3.7 We freely give advice to Ministers on how the government's objectives can be best achieved. Our advice, where possible, is based on research, evidence, evaluation and analysis and supported by long-term policy capability. We canvas a range of options, aim to incorporate a range of perspectives and inform Ministers about the pros, cons, uncertainties and consequences of each.



Practical guidance

A relationship of trust and confidence

- 3.8 Effective free and frank advice depends on a relationship of trust and confidence. We support this relationship with our Ministers by providing quality advice and demonstrating that we are committed to helping them achieve their objectives.

Communicating advice

- 3.9 A Minister's communication style preference is important and providing advice in their preferred style will support effective free and frank advice. Understanding and operating within this context is key.
- 3.10 It is also important to consider whether the advice has been understood. If it has not, it may be necessary to repeat the advice or reconsider the way in which it was delivered.

Documenting advice

- 3.11 We must be diligent in maintaining full and accurate records of advice provided. Where we have given advice verbally, we record key points and decisions. Where applicable, we comply with Protective Security Requirements when documenting our advice.
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Links to additional guidance

- 3.12 This guidance complements and should be read alongside:

- [Guidance: Free and frank advice and policy stewardship](#)
 - [Department of the Prime Minister and Cabinet - Free and frank advice](#)
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4

Kopounga Whai-painga Merit-based Appointments

We make merit-based appointments.

What are merit-based appointments?

- 4.1 Making a merit-based appointment means giving preference to the candidate who is best suited to the position.⁴
- 4.2 Merit-based appointments are an essential cornerstone of our professional and politically neutral public sector. Merit-based appointments act as a safeguard to political patronage, favouritism and prejudice.
- 4.3 Determining the candidate best suited to a position requires us to identify the skills, responsibilities and effort that are necessary to perform the role. Criteria identified may include (but are not limited to) qualifications, technical knowledge, experience, team fit, cultural competency, community connections or other relevant work features.

⁴Public Service Act 2020, [Section 72](#), Crown Entities Act 2004, [Section 118](#) requires the impartial selection of suitably qualified persons for appointment.

Why are merit-based appointments important?

4.4 Merit-based appointments are the foundation upon which:

- **We maintain procedural fairness.** By having selection processes that are open and fair, we support and attract a workforce who understand and can deliver services to meet the needs of different communities.
- **We develop a highly capable workforce.** Understanding that appointments are based on merit provides an incentive to perform our roles to the best of our abilities and supports diversity and inclusion within the public sector.
- **We maintain public confidence** in our ability to act impartially and make appointments without undue political influence.

What are our roles?

- 4.5 Our leaders have a responsibility to ensure their agencies uphold the principle of merit-based appointment. We all have a part to play in applying the principle. However, depending on our level of involvement in recruitment, some of us will make recruitment decisions or will be involved in running recruitment processes in other ways. For those of us performing these roles, we need to follow our agency's internal policies and work to ensure independence, confidentiality, fairness and transparency in the appointment or promotion of individuals.

Practical guidance

Recruitment and Employment Practices

- 4.6 We make sure that all appointments are lawful, follow the required statutory processes and adhere to internal recruitment policies. Permanent appointments are made through an open and contestable process.⁴ Additionally, we adhere to the Good employer requirements outlined in both [section 73 of the Public Service Act 2020](#) and [section 118 of the Crown Entities Act 2004](#).

Diversity and inclusion

- 4.7 Merit-based appointments and diversity and inclusion are consistent and mutually reinforcing. Merit-based appointments help us to recruit a diverse workforce with the experience and expertise to improve the lives of all the people we serve. Agencies should ensure their definitions of merit are defined around the requirements of the [Equal Pay Act 1972](#) (focusing on skills, responsibilities and effort required by the work).

⁴Public Service Act 2020, [Section 64\(2\)\(a\)](#), [section 70](#) and [section 89](#) are exceptions to a merit-based appointment for public service agencies.

Links to additional guidance

- 4.8 This guidance complements and should be read alongside:
- [Guidance: Recruitment guidance for public service recruiters](#)
 - [Model Standards: Workforce assurance model standards](#)
 - [Guidance: Diversity and inclusion](#)
 - [Guidance: Addressing bias](#)

5

Kāwanatanga Tuwhera Open Government

We foster a culture of open government.

What is open government?

- 5.1 Open government is about strengthening democracy in New Zealand by ensuring its people can understand and actively contribute to what government does and how it does it.
- 5.2 At its core, it is about improving **transparency** of the workings of government, citizen **participation** and **accountability** of the government to its people. Open government has a strong reciprocal relationship with trust and confidence in the Public Service.
- 5.3 We must also balance transparency with legitimate needs for keeping some information confidential. Disclosure of government information still needs to occur within our agency's information management policies, procedures and the law.

Why is open government important?

- 5.4 Open government is the foundation upon which:
 - a. **We raise public understanding of how government works.** By being transparent about the work that we do, the public will learn more about how government works and how it is relevant to them. In turn, we build public trust.

- b. **We promote participation.** By supporting engagement with government, the public will have a deeper understanding of relevant issues. We will be more responsive and able to develop innovative solutions.

- c. **We demonstrate our accountability to the public.** Where possible, we do this by proactively being open with the public about the decisions that we make. By doing so, they can be assured that public authority and funds are being used appropriately.

What are our roles?

- 5.5 Our leaders have a responsibility to ensure their agencies uphold the principle of open government. We need to support them in performing that duty, but as individuals, we can also foster a culture of open government by identifying and discussing opportunities to be open. A culture of open government is one that looks for opportunities to be open whether it is within an agency or working across agencies. We should enable transparency, participation and accountability within the discretion we have.
- 5.6 There are a number of rules and frameworks that support open government such as access to information, consultation frameworks, co-designing services and how we provide advice. Our role is to work through these relevant frameworks where they apply to our work. Open government is an evolving space. As improvements are embedded into the system, we seek out further opportunities to enhance our practices.



Practical guidance

Access to information

- 5.7 Where possible, we support our agency to release information to the public through internal policies and applicable legislation. This includes proactive release of information and publishing of official information statistics. Confidentiality and privacy obligations are also important and are consistent with open government. Our default position should be open, unless by law there is good reason to withhold it. For more information see: [Agency guidance: OIA guidance for agencies](#) and [Guidance: Maintaining confidentiality of Government information](#).

Participation

- 5.8 Where possible we seek participation from the people we serve in the way we design services, inform policies and develop partnerships that benefit our communities. We consider ways of providing services to minimise barriers around accessibility and understanding. Where practicable, we seek input and feedback from a range of different public perspectives to inform our work. For more information see: [Department of Prime Minister and Cabinet - Community engagement toolbox](#).
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Providing advice

- 5.9 When providing advice to Ministers and others, we encourage decision-makers to facilitate open government and public participation (where possible). We do this in a way that respects the relevant cabinet conventions and protections under the Official Information Act for free and frank advice.

Links to additional guidance

- 5.10 This guidance complements and should be read alongside:
- [Guidance: OIA Statistics](#)
 - [Guidance: Proactive release](#)
 - [Department of Prime Minister and Cabinet - Cabinet Manual](#)
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6

Kaitiakitanga | Stewardship

We proactively promote stewardship of the Public Service.

What is stewardship?

- 6.1 Stewardship is a proactive duty of care for something that belongs to or exists for the benefit of others, now and into the future. Being a good steward requires active planning and management of resources so that the public's medium and long-term interests can be protected.
- 6.2 The Public Service Act states that stewardship of the Public Service includes a duty of care for:
- its long-term capability and its people
 - its institutional knowledge and information
 - its systems and processes
 - its assets
 - the legislation administered by agencies⁶.

⁶Public Service Act 2020, [Section 12\(1\)\(e\)](#).

Why is stewardship important?

6.3 Stewardship is the foundation upon which:

a. We protect against short-term thinking when developing policy and making decisions.

Stewardship requires us to look ahead and provide advice on future challenges and opportunities to strengthen New Zealand. In doing so, we connect long-term public service stewardship with the priorities of the government of the day.

b. We enhance our capability to serve future governments and the public. By providing strategic advice on medium and long-term issues, we position ourselves well for future service.

c. We protect the long-term sustainability of New Zealand's system of government. By designing our systems and processes with longevity in mind and by caring for our people, knowledge, information and assets, we are well placed to support the continuity of New Zealand's entire system of government.

What are our roles?

- 6.4 Our leaders have a responsibility to ensure their agencies uphold and promote the principle of stewardship. There are several different ways in which we can support them to perform that duty including:
- 6.5 Supporting Ministers to be good stewards of the public interest. We do this by encouraging them to maintain institutions, assets and liabilities, as well as the currency of the legislation administered by their agency, and by providing advice on long term implications of policies.⁷
- 6.6 Fulfilling independent stewardship obligations our agency may have. There are statutory obligations of stewardship that chief executives owe directly to Parliament and the public. This work must be done independently of Ministers. An example of this is long-term insights briefings, which provide information on medium to long term trends, risks and opportunities that may affect New Zealand.⁸
- 6.7 Stewardship of personal and official information. We are stewards of New Zealanders' personal information and official information. It is important that we ensure we have good information management practices that protect personal and official information now and into the future.

⁷ Public Service Act 2020, [Section 52\(1\)\(d\)](#).

⁸ Public Service Act 2020, [Schedule 6, clause 8](#).

Practical guidance

- 6.8 While public service agencies have some statutory stewardship duties, all agencies can promote stewardship through some of these actions.

Long term capability and people

- 6.9 We need to anticipate, actively manage and plan for our future workforce so that we can meet future challenges. This can be supported by developing future-focussed capability and ensuring this is embedded throughout our teams and processes. We also ensure we have data and information that can support us to do that. In supporting stewardship responsibilities of the Commissioner and the Public Service Leadership Team, the Public Service should use common workforce standards. See: [Te Kawa Mataaho Guidance: Information standards and guidance](#).

Institutional knowledge and information

- 6.10 We must preserve our institutional knowledge and information, including by meeting the requirements of the Public Records Act 2005. This means we maintain information practices in accordance with our legal obligations and ensure information is recorded and can be found. However, it is more than that. It is also about our people and their experiences, memory and expertise. It is just as important to encourage continuous knowledge sharing and succession planning for critical roles in our agencies and teams.

Systems and processes

- 6.11 We must work to ensure that our systems and processes are robust so that the Public Service can deliver and maintain the services that we provide to the public. We can promote stewardship by regularly monitoring, reviewing, evaluating and updating systems and processes with sustainability and security in mind.

Assets

- 6.12 The Crown is responsible for significant public assets which are crucial to providing services to the public. Stewardship of both physical and digital assets goes beyond complying with the Public Finance Act 1989 and requires us to protect and maintain these assets for the long-term benefit of New Zealand. See: [Office of the Auditor General - Managing Public Assets 2013](#).

Stewardship of legislation

- 6.13 Legislation and more fundamentally, regulatory systems and service delivery arrangements, need ongoing care and attention to deliver effectively and fairly over time. In practice, this is about proactive monitoring, reviewing and updating of our legislation and administrative practices so that the systems we operate under are fit for purpose for our current and future contexts. For more information on regulatory system stewardship see: [Treasury - Government Expectations for Good Regulatory Practice](#) and [Treasury - Starting out with regulatory stewardship - An introductory resource](#).

Links to additional guidance

- 6.14 This guidance complements and should be read alongside:
- [Guidance: Free and frank advice and policy stewardship](#)
 - [Te Kawa Mataaho - Long-term insights briefings](#)

Rārangi kupu | Glossary

For the purpose of this guidance, unless the context specifically requires otherwise, the terms and phrases used in this guidance have the following meanings:

Term	Explanation
Public Service	is the collective term for departments, departmental agencies, interdepartmental executive boards, interdepartmental ventures and Crown agents. See section 10 of the Public Service Act 2020.
Public sector	is the collective term for all the agencies this guidance is issued to including departments, departmental agencies and statutory Crown entities.
Public servant	is any employee or contractor working for the agencies listed under ‘Who this guidance is for.’
Our leaders	are the responsible leaders of agencies to which this guidance applies. This includes agency chief executives and boards of Crown entities.
We or us	is used to refer to public servants.
Our	is used to refer to things that belong collectively to public servants (either all public servants or a significant proportion of public servants, depending on the context).
The Public Service Commissioner’s integrity and conduct mandate	refers to the Commissioner’s statutory powers to set minimum standards of integrity and conduct and to provide advice on integrity and conduct matters, as set out in section 17 of the Public Service Act 2020. It also refers to the Commissioner’s general functions as defined in section 44(b) of the Public Service Act 2020.

Rārangi kupu mo Te Reo Māori

Te Reo Māori Glossary

The translations referred to within this guidance will be referred to as a ‘descriptor’ as part of this glossary. Some words or concepts do not have like for like translations in Te Reo Māori. The descriptors used, where possible, are direct translations of the words or are *kīwaha* (idiom) which provide a relevant description.

Term	Explanation
Ngā Pou	is the Te Reo Māori title used for Principles . Pou is a commonly used and recognised term that can be translated as pillar, support or something that is fixed and immovable.
Te Noho Taiapa	is the descriptor for the politically neutral principle. It is a <i>kīwaha</i> and directly translates to ‘sit on the fence’. For clarity, it is not expected that public servants sit on the fence in all situations especially in relation to their rights and freedoms. However they should consider political neutrality as part of their role as a public servant and the guidance within this context.
Tohutohu Hāngai	is the descriptor for the free and frank advice principle. Tohutohu is a translation for ‘to advise’. Hāngai is a translation for directly and is commonly used in the <i>kīwaha</i> ‘me hāngai te kōrero’ which can be translated to keeping to the point or ‘don’t beat around the bush.’
Kopounga Whai-painga	is the Te Reo Māori descriptor for the merit-based appointments principle. Kopounga is a translation for appointee, appointment or successful candidate. Whai-painga is a translation for merit-based or to be of value or benefit.
Kāwanatanga Tuwhera	is the Te Reo Māori descriptor used for open government . Kāwanatanga is the translation for Government and tuwhera is to open or be open.
Kaitiakitanga	is the Te Reo Māori descriptor used for stewardship . Kaitiakitanga in its simplest form is translated to guardianship, stewardship or trustee.



The New Zealand Public Service is internationally recognised as one of the world's most trustworthy. This comes down in very large part to the integrity, decency and commitment that the vast majority of public servants bring to their role every day.

- **PETER HUGHES, PUBLIC SERVICE COMMISSIONER**

Robust standards of integrity and personnel security enable organisations to have trust and confidence in the workforce. The [Protective Security Requirements](#) (PSR) outline the Government's mandatory expectations for managing personnel, physical and information security in agencies covered by the requirements. The PSR [Personnel Security Mandatory Requirements](#) cover processes for identifying suitable people to employ or engage, educating them about their responsibilities, evaluating their continuing suitability and managing a person's departure. Organisations that are not covered by the mandatory requirements are encouraged to adopt the best practices set out in the PSR.

These Workforce Assurance model standards outline the Public Service Commissioner's additional expectations on organisations when recruiting employees and contractors. The standards help ensure the suitability of the people organisations engage and that the workforce continues to meet high standards for integrity and honesty.

Definitions

These model standards cover employees and contractors. For clarity:

- **Employees** have an employment agreement, with their employment records including wage, holidays and leave records maintained by the organisation. Employees include fixed-term employees, part-time employees, temporary staff, casual staff and secondees.¹
- **Contractors** are engaged on a contract for services, are paid on invoice and are responsible for their own tax and ACC levies. Contractors can be engaged directly or through a third party (e.g. recruitment agency).

The definition of 'contractor' for these standards does not include consultants who work independently from the agency for a consultancy company to deliver a specific piece of work and are responsible for their own resources. The definition of 'contractor' for these standards also does not include those providing services outside of core business such as cleaning or trades services. Assurance regarding such people comes from the providing company.

¹ These definitions vary slightly from the PSR Personnel Security Mandatory Requirements which refer to employees, contractors and temporary staff. For these model standards, temporary staff are regarded as employees if they have an employment agreement with the organisation.



Recruitment

Screening

The aim of screening is to obtain information to confirm the identity and credentials of people and assess their suitability before they are employed or engaged and given access to an organisation's information and resources. Prior consent of the person being assessed is required for each screening activity.

Organisations must confirm identity, confirm nationality, confirm the right to work in New Zealand, undertake robust reference checks and undertake a criminal record check through the Ministry of Justice. The [*PSR Recruit the right person*](#) has more information on these checks.

Where external recruitment companies are used, organisations must be clear whether the recruitment company is to conduct any of the screening checks with any decisions being made by the recruitment company subject to clear and agreed decision-making guidelines (and this is included in the All-Of-Government Recruitment Services Contract managed by the Ministry of Business, Innovation & Employment).

Referee checks should usually be undertaken by the organisation, preferably the hiring or contract manager. Where referee checks and other screening checks are undertaken by a recruitment company, the organisation must obtain assurance that the checks have been completed satisfactorily, including the correct referees being interviewed and being asked the right questions. The request for a serious misconduct disciplinary record from previous public service employers (see below) must be conducted by the organisation.

Referee checks for prospective employees and contractors are expected to be completed prior to any contractual relations being formed, with checks usually happening at the preferred candidate stage. As one of the referee checks, recruiting organisations will conduct referee checks with the candidate's last direct line manager unless it is not able to be done, including for candidates from the private sector. In some circumstances it may not be possible to conduct a referee check with the immediate past line manager. In these cases, the recruiting organisation should clearly document the reasons and conduct a reference check with the HR manager of the immediate previous employing organisation, and a previous line manager, to receive adequate assurance.

Referee checks include questions on whether the candidate has ever, to their knowledge, had a serious misconduct investigation, upheld or currently occurring, or has been dismissed from employment. Guidance and tools are available to assist managers to identify warning signs, for example unexplained gaps in employment history, that may signal concerns about a person's integrity and suitability for employment or engagement.

Screening checks should be undertaken on all people even if they come from another Government organisation or have previously been in a Government organisation. Where an applicant is internal, the organisation should consider whether previous verification checks were undertaken, whether the checks were as rigorous as the present screening process, and whether the previous checks are adequate for the work to be undertaken in the new role (e.g. for senior or high-risk roles).

Disclosure of whether the person has been subject to a serious misconduct investigation, concluded and upheld or currently under investigation

Step 1: All prospective employees (not contractors) are asked to authorise the disclosure of whether the person has been subject to a serious misconduct investigation, concluded and upheld or currently under investigation, from all previous State services employers (see note below for coverage) for the last three years.

Serious misconduct is conduct that can have the effect of destroying or undermining the relationship of trust and confidence between an employee and employer. Without this trust and confidence an employment relationship can't continue.²

Agencies should ensure the prospective employee has a full and fair opportunity to put forward their view of events.

Step 2: Following that, if the application proceeds, the prospective employee is asked to consent to the disclosure of additional detail of the serious misconduct investigation, concluded and upheld or currently under investigation, by the previous employer. The organisation approached for the information must be shown evidence that the person concerned has approved the disclosure.

The previous employer providing the additional detail of the serious misconduct investigation should ensure the privacy of other people who might have been involved in the investigation is respected. The person should then have a full and fair opportunity to put forward their view of events and seek correction of any incorrect or misleading information the report contains.

If the person is not employed or engaged, the serious misconduct investigation report should be destroyed. If the person is employed or engaged the report should be placed on the person's personnel file. Templates for requesting and reporting are available for organisations to use when sharing a serious misconduct investigation report.

Overall: The checks for whether the person was subject to a serious misconduct investigation concluded and upheld or currently under investigation with the previous employing organisations, should usually be conducted at the preferred candidate stage, i.e. before contractual relations are formed.

If the candidate does not consent to serious misconduct disclosure, it does not mean they cannot be employed. The employing organisation can ask the person why they are refusing to consent and take into account those reasons in deciding whether to progress the application.

The organisation approached for a check for serious misconduct should provide the information within five working days. These checks are organisation to organisation i.e. not with the previous direct line manager or other referee. This check should be conducted with Public Service departments and statutory Crown entities (Crown agents, Autonomous Crown entities, Independent Crown entities) only. Other State sector entities are not covered by these model standards and are not expected to maintain records and respond to requests in the required format.

² [Employment New Zealand – Misconduct and serious misconduct](#)



The disclosure of a serious misconduct investigation, concluded and upheld or currently under investigation, is conducted for employees, not contractors, because serious misconduct records for contractors are not maintained by State services organisations. The reference check for contractors must cover whether the candidate has ever to their knowledge had a serious misconduct investigation upheld or currently occurring or has been dismissed from employment. If a contractor's last previous role was as a State services employee, a check for serious misconduct investigation, concluded and upheld or currently under investigation, must be conducted.

For senior or high-risk roles, organisations should consider conducting the checks for disciplinary history for serious misconduct with previous State services employers for a longer period if appropriate.

Agencies should especially note that:

- Disclosure of disciplinary investigations from previous employers must be based on consent from the person concerned
- These provisions only apply to serious misconduct, not to other misconduct.

In conducting checks agencies should involve their Privacy Officer in designing a privacy-friendly way to collect, store, secure and dispose of information. The Government Chief Privacy Officer is available to help guide agencies in protecting personal information.

Fair consideration

All information gathered through screening checks must be considered by the manager on a case-by-case basis including against the risk profile of the role, the requirements of the position, how recent any integrity or conduct issue was, any counselling, retraining or rehabilitation a person has undergone and the explanation provided by the candidate. The manager should consider whether strategies need to and can be put in place to minimise potential risk to the organisation, co-workers and others the person may come into contact with. Disclosure of serious misconduct does not mean the person cannot be employed.



Model standards:

- Policies and procedures include guidance on when and how screening is undertaken for prospective employees and contractors and the standards that apply, including screening overseas applicants, and the roles and responsibilities of third-party providers supporting recruitment processes.
- There is a clear statement included as part of the application process that screening will take place, and the purposes for which the information will be used. The applicant's written consent is obtained to allow the organisation to gather such information. This includes consent to the disclosure of whether the person has been subject to a serious misconduct investigation, either concluded and upheld or currently under investigation, from all previous State sector employers for the last three years.
- Referee checks are expected to be completed prior to any contractual relations being formed, with checks usually happening at the preferred candidate stage. If referee checks and other screening checks are undertaken by a recruitment company, the organisation must obtain assurance that the checks have been completed satisfactorily, including the correct referees being interviewed and being asked the right questions.
- As one of the referee checks, the recruiting organisation will conduct referee checks with the candidate's last direct line manager. In circumstances where that is not able to be done, a referee check is conducted with the HR Manager of that organisation, and a previous line manager, to receive adequate assurance.
- Referee checks include questions on whether the candidate has ever, to their knowledge, had a serious misconduct investigation upheld or currently occurring or has been dismissed from employment.
- Serious misconduct investigation checks are conducted by the recruiting organisation. These are:
 - Step 1: A check with all previous State services employers for the last three years on whether the person has been subject to a serious misconduct investigation, concluded and upheld or currently under investigation.
 - Step 2: if the application proceeds and subject to further consent, a request for additional detail of the serious misconduct investigation from the previous employer.
- The organisation approached for a check for serious misconduct should provide the information within five working days.



Exit

Exit when a serious misconduct disciplinary process or investigation is underway

While relatively uncommon, the situation can occur where a person has been employed, engaged or contracted by a government organisation and then found to be the subject of pending criminal charges or a serious misconduct investigation.

An employee can resign at any time by notifying the manager that they will be leaving and giving the correct notice period. Accepting a resignation request is not a formal requirement. Once an employee's notice period is completed there is no longer an employment or contractual relationship and the disciplinary process ceases, however an investigation can continue. An organisation should consider inviting the employee to stay (including possibly retaining them on the payroll) until the disciplinary process or investigation is concluded.

Where the employee or contractor leaves, they are informed the investigation will conclude with a record made, and that this record may be disclosed to future employers. The person should be given the opportunity to add their own statement to this record. Exceptions to this are where there are compelling and documented reasons not to conclude the investigation and specialist advice and authorisation by the organisation's chief executive is obtained.

If serious misconduct by an employee is found after the person has left the organisation, the organisation should consider whether any reference given by the organisation for that person which resulted in employment should be corrected. This may include informing the ex-employee and giving them the opportunity to respond to the investigation.



Model standards:

- All investigations into serious misconduct should be concluded and the actions recorded even where the person has ceased to work for the organisation. This requirement applies except in exceptional circumstances and subject to obtaining organisation chief executive approval.
- When a person is the subject of a serious misconduct investigation and resigns before the investigation is concluded, consideration is given to asking the employee to remain in employment until an outcome is reached to give them an opportunity to fully participate.
- Where the employee or contractor leaves, they are informed the investigation will conclude with a record made, and that this record may be disclosed to future employers. The person should be given the opportunity to add their own statement to this record.
- When a breach is identified involving serious criminal activity, organisations should immediately report the matter to the Police or the Serious Fraud Office.
- When the breach is an issue of national security, it must be reported to the New Zealand Security Intelligence Service.
- Policies and procedures include expectations and guidance for people in the organisation who have been asked to be referees for current or past employees to ensure that their feedback is open and honest about the person's employment record. Where the referee is unable to comment on these matters due to a confidential settlement with the person concerned, they decline to provide a reference.
- If serious misconduct by an employee is found after the person has left the organisation, the organisation should consider whether any reference given by the organisation for that person which resulted in employment should be corrected. This may include informing the ex-employee and giving them the opportunity to respond to the investigation.



Settlement agreements, confidentiality and non-disclosure statements

Settlement agreements can assist to minimise potentially drawn-out processes where the parties have not been able to resolve a dispute or problem or where trust and confidence has irretrievably broken down. Settlement agreements should not be used to shortcut an investigation into wrongdoing.

If a decision is taken to enter into a settlement agreement with an employee or contractor, organisations are expected to include confidentiality or non-disclosure statements only when they are genuinely necessary and in the interests of both parties. Confidentiality and non-disclosure statements should be written where possible, so they do not prevent the agency responding openly to reference requests from future employers. Finding the right balance is a matter for judgement in the particular circumstances of each case. Organisations must consider what interests need to be protected in the circumstances and whether a non-disclosure statement of some kind is genuinely necessary to achieve that protection. Any restrictions need to be lawful, proportionate and have a justifiable reason. These statements recognise that in some cases confidentiality and non-disclosure statements are appropriate.

As at all times, when conducting misconduct investigations and negotiating settlement agreements, organisations must follow good employer practices and treat employees fairly, reasonably, in good faith and with respect and must observe natural justice principles.

Model standards:

- Settlement agreements including confidentiality provisions should only be used where genuinely necessary.
- Any decision by an organisation to enter into a settlement agreement must be supported by documentation of the process and the rationale for the agreement. If confidentiality or non-disclosure statements are included in a settlement agreement, it should be approved by senior management.
- If entering into confidential settlement, agencies and the person need to discuss what information will be provided by the agency if asked for a reference. The agency needs to consider its responsibilities for ensuring the integrity of the system in those discussions.