



Political Neutrality in the Public Service

Political neutrality is the absolute bottom line for the Public Service and the maintenance of public trust and confidence in it and its institutions. The ability of Public Service organisations, and the senior leaders who steward them, to serve both current and successive governments is a core tenet of New Zealand's particular set of constitutional arrangements. These arrangements ensure the Public Service can provide continuity of service and high quality, free and frank advice, which are vital to good government.

The Public Service Act 2020 explicitly acknowledges that public servants have all the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990. Along with these rights and freedoms, the Act enshrines the principle of political neutrality, along with free and frank advice, open government, merit-based appointment and stewardship. It aims to recognise and preserve these principles for the public sector of today and for future generations.

In serving the government of the day, public servants must be politically neutral. Political neutrality helps to manage the potential for conflict between the public sector's policy advice role and the Government's decision-making and advocacy role.

Crown entity Board members are bound by the [Code of Conduct for Crown Entity Board Members](#), issued by the Public Service Commissioner (the Commissioner) under the Public Service Act 2020. The Code reinforces the requirement of political neutrality which requires all Crown entity Board members to act in a politically impartial manner, irrespective of their political interests.

Crown agent Crown entity Boards are additionally responsible for upholding the public service principles in the Public Service Act, including the principle of political neutrality, when carrying out their responsibilities and functions. Te Kawa Mataaho Public Service Commission (the Commission) issues guidance to public servants, such as its [General Election Guidance](#), that sets out the expectations of public servants and Board members in conducting themselves in public in a manner that maintains these principles.

The General Election Guidance also sets out that the seniority of a person's role in the Public Service is an additional that influences their ability to make public comments on political matters. The greater the seniority and influence, the less appropriate political activity outside work may be. These public servants must take particular care about engaging in political activity outside work and carefully consider public perceptions.

While the Public Service Act and the Code of Conduct set out the expectations, the duty of Board members to uphold those expectations is owed to Ministers. The Commissioner sets the expectations and is required to judge conduct against them, but Board members owe their responsibility for that conduct to the responsible Minister for the entity they govern.

The Crown Entities Act 2004 sets out Ministers' powers to act in relation to breaches of the Code or failure to uphold the principles. While the Commissioner may determine whether a breach has occurred, any action must be determined by the relevant Minister following their consideration of the matter.

Ministers' powers in respect of Board members under the Crown Entities Act are broad. Under section 36 of the Act, Ministers can remove a Board member at any time and entirely at his or her discretion. They must follow the process set out in section 41 before exercising that power. Equally, they can caution or warn a Board member using any process they deem appropriate in their judgement, having considered the matter.

Public Service Commissioner's Advice

In the matter of Mr Rob Campbell's recent comments on LinkedIn, the Ministers for Health and Environment both sought advice from the Commissioner in respect of the appropriateness of those comments. The Commissioner considered the comments under the Code of Conduct and principle of political neutrality.

In the Commissioner's view, the comments were a breach of the Code and also demonstrated a failure to uphold the public service principle of political neutrality, and compromised the trust and confidence Mr Campbell needed to operate effectively in his role as Board Chair of the Crown entities Te Whatu Ora and the Environmental Protection Authority.

This is outlined in the attached letters provided to the Minister of Health and the Minister for the Environment setting out the relevant considerations and the lines of jurisdiction between the Commissioner and Ministers.



Te Kawa Mataaho

Public Service Commission

27 February 2023

Hon Dr Ayesha Verrall
Minister of Health
Parliament Buildings
WELLINGTON

By email: 9(2)(a) privacy [@parliament.govt.nz](mailto:9(2)(a)privacy@parliament.govt.nz)

Dear Minister

Yesterday evening you raised concerns in relation to LinkedIn comments posted by Mr Rob Campbell on a press release by Mr Christopher Luxon MP, Leader of the Opposition. You requested my advice on the appropriateness of Mr Campbell's comments and on what, if any action, might be taken.

Political neutrality

By long-standing convention New Zealand's Public Service is politically neutral. It serves the government of the day and successive governments, regardless of their political composition. By acting in an apolitical way, the Public Service can maintain the confidence of the current Government, whilst ensuring the confidence of future Governments. This allows the Public Service to provide continuity of service and high quality, free and frank advice, which are vital to good government.

In 2020, Parliament enshrined political neutrality in statute as a public service principle. Section 12 of the Public Service Act 2020 also created duties for upholding the principles. In relation to Crown Agents, the Board is responsible to its Minister for ensuring that the entity they govern upholds the principle of political neutrality when carrying out their functions.

The principle of political neutrality is further reinforced by the Code of Conduct for Crown Entity Board Members, issued by the Public Service Commissioner under s 17 of the Act. Board Members must comply with this Code. It relevantly states:

We are politically impartial

We act in a politically impartial manner. Irrespective of our political interests, we conduct ourselves in a way that enables us to act effectively under current and future governments. We do not make political statements or engage in political activity in relation to the functions of the Crown entity.

When acting in our private capacity, we avoid any political activity that could jeopardise our ability to perform our role or which could erode the public's trust in the entity. We discuss with the Chair any proposal to make political comment or to undertake any significant political activity.

Mr Campbell's LinkedIn Comments

Mr Campbell's LinkedIn profile notes his role as chair of Te Whatu Ora and the Environmental Protection Agency. Mr Campbell's posts directly comment on political matters, specifically:

- 1) That the National Party's policy on three waters should not be taken seriously

"I was so amused by this that I thought it needed to stand alone. ... the solution ... can only evince a John McEnroe: "You cannot be serious!" What on earth would make anyone think this was a sensible idea for debt raising alone, let alone the management and delivery of the tasks" ... "I can only think that this is a thin disguise for the dog whistle on "co-governance".

2) Calling into question Mr Luxon's judgment

"...he might be able to rescue his party from stupidity on climate change but rescuing this from a well he has dug himself might be harder."

3) Questioning the integrity of the Opposition's policy position

"I can only think that this is a thin disguise for the dog whistle on "co-governance".

In my view, these comments are a breach of the Code and also demonstrate a failure to uphold the public service principle of political neutrality.

What action may be taken

I am aware that concerns have previously been raised with Mr Campbell about past public comments he has made. These most recent posts are clear breaches of the Crown entity Board member Code of Conduct and also demonstrate a failure to uphold the Public Service principle of political neutrality and in my view compromise the trust and confidence he needs to operate effectively in this role.

As Minister you have the power under section 36 of the Crown Entities Act to remove a Board member from their role for "any reason" under the Crown Entities Act. You can also formally caution or warn a Board member. In seeking to remove a Board member from their role, the Act contemplates that the process will allow for the principles of natural justice to be met and to enable you to properly consider the matter. This requires you to:

- put the matter to the member for their response
- advise the member that you are considering exercising the removal power under section 36 of the Crown Entities Act.
- consider the member's response before making any final decision.

When you have considered this letter and determined the action you intend to take, I am happy to support you by preparing any documentation you might need.

Yours sincerely



Peter Hughes (he/him)
Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service



Te Kawa Mataaho

Public Service Commission

1 March 2023

Hon David Parker
Minister for the Environment
Parliament Buildings
WELLINGTON

By email: 9(2)(a) privacy@parliament.govt.nz

Dear Minister

Earlier today you asked for my assessment of the LinkedIn comments recently posted by Mr Rob Campbell on a press release by Mr Christopher Luxon MP, Leader of the Opposition. Mr Campbell is the Board Chair of the Environmental Protection Agency.

I provided my view on this matter to the Honourable Minister of Health, Dr Ayesha Verrall on 27 February, as Mr Campbell was also the Board Chair of Te Whatu Ora at that time. For the reasons set out below, my view is that the comments are a breach of the Code of Conduct for Crown Entity Board Members and demonstrate a failure to uphold the public service principle of political neutrality, enshrined in the Public Service Act 2020. Mr Campbell's obligations are the same in relation to both Board roles, and there is no distinction between the two roles in terms of the breach.

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Mr Campbell's LinkedIn profile notes his role as chair of the Environmental Protection Agency and Te Whatu Ora. Mr Campbell's posts directly comment on political matters, specifically:

- 1) That the National Party's policy on three waters should not be taken seriously

"I was so amused by this that I thought it needed to stand alone. ... the solution ... can only evince a John McEnroe: "You cannot be serious!" What on earth would make anyone think this was a sensible idea for debt raising alone, let alone the management and delivery of the tasks" ... "I can only think that this is a thin disguise for the dog whistle on "co-governance".

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"I can only think that this is a thin disguise for the dog whistle on "co-governance".

In my view, these comments are a breach of the Code and also demonstrate a failure to uphold the public service principle of political neutrality.

What action may be taken

I am aware from Minister Verrall that concerns have previously been raised with Mr Campbell about past public comments he has made. These most recent posts are clear breaches of the Crown entity Board member Code of Conduct and also demonstrate a failure to uphold the Public Service principle of political neutrality and in my view this compromises the trust and confidence he needs to operate effectively in his role as the Board Chair of the Environmental Protection Agency.

As Minister you have the power under section 36 of the Crown Entities Act to remove a Board member from their role for "any reason" under the Crown Entities Act. You can also formally caution or warn a Board member. In seeking to remove a Board member from their role, the Act contemplates that the process will allow for the principles of natural justice to be met and to enable you to properly consider the matter. This requires you to:

- put the matter to the member for their response

- advise the member that you are considering exercising the removal power under section 36 of the Crown Entities Act.
- consider the member's response before making any final decision.

Minister Verrall has decided that she no longer has confidence in Mr Campbell as the Board Chair of Te Whatu Ora and has removed him from that role. It is for you to consider the matter in relation to Mr Campbell's role as the Board Chair of the Environmental Protection Agency. In making that decision it is open to you to also consider the further public comments that Mr Campbell has made since Minister Verrall made her decision on this matter.

When you have considered this letter and determined the action you intend to take, I am happy to support you by preparing any documentation you might need.

Yours sincerely



Peter Hughes (he/him)
Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service