



# REFORM OF THE STATE SECTOR ACT 1988

## Submissions Analysis of Directions and Options for Change

2019

STATE SERVICES COMMISSION  
TE KAWA MATAAHO





# CONTENTS

Page 3	Introduction
Page 4	High level themes
Page 5	The case for change
Page 7	The unifying Purpose, Principles and Values of the New Zealand Public Service
Page 10	Responding to the needs and aspirations of Māori
Page 12	People
Page 14	Organisational arrangements
Page 16	Leadership of the Public Service
Page 20	Enhancing capability of the Public Service to serve successive governments

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## INTRODUCTION

From 3 September to 12 October 2018, the State Services Commission (SSC) gathered public feedback on proposals in the discussion document, [Reform of the State Sector Act 1988 – Directions and Options for Change](#).

SSC received more than 300 written submissions. Of these, 178 were from public servants; 42 from members of the public; 24 from Crown entities; 14 from non-government organisations (NGOs); 13 from academics; the Public Service Association (PSA) and three from PSA membership groups; five from non-PSA unions; six from Māori groups; and 18 were 'other' submissions.

**Many of these submissions reflected a wide range of perspectives from different communities. A number of the respondents were from representative bodies with significant membership bases.**

NGOs included the Institute of Public Administration New Zealand (IPANZ) and the Australia and New Zealand School of Government (ANZSOG). IPANZ also held a panel discussion and forum on the proposals.

Representative NGOs that provided responses and feedback included the New Zealand Law Society, the Institute of Internal Auditors NZ, the Institute of Directors, the Chartered Accountants Australia and New Zealand, CPA Australia, the Salvation Army, the NZ Society of Local Government Managers and the Local Government Think Tank.

SSC received responses from professional groups within the public service including chief financial officers, chief legal advisers, heads of communications, heads of human resources, and the Department of Internal Affairs Government Chief Digital Officer, as well as the Government Women's Network, Diversity & Inclusion Network, and the Disabled Network at Ministry of Social Development.

## What we did



**Public consultation**  
3 Sep - 12 Oct 2018



**MORE THAN 300**  
submissions

**1100+** people at  
**33** nationwide consultation meetings including:  
**7** hui for Māori public servants and  
**2** fono for Pacific peoples

In addition to written responses, throughout the consultation period SSC directly engaged with more than 1100 people in Auckland, Wellington, Whangarei, Hamilton, New Plymouth, Gisborne and Christchurch. Public servants, Crown entities representatives, members of the public and NGO staff attended these meetings. There were dedicated workshops for Māori and Pacific peoples.

This document presents the analysis of the responses to the questions posed in the discussion document and the key themes that emerged from public consultation.

The SSC used these responses to inform its advice to the Government on the reform of the Act. A draft Bill will be introduced to Parliament in 2019 and will be subject to a Select Committee process.



## HIGH-LEVEL THEMES

### Overall there was strong support for change from both within the Public Service and those providing external perspectives.

The areas that received strongest support were:

- A unified Public Service driven by a shared purpose, principles and values
- Improvement across the system in its response to the needs and aspirations of Māori.

These areas, together with diversity and inclusion, attracted the largest number of responses from a wide array of individuals and organisations.

Structural and system architecture proposals were of strong interest to a smaller number of specific respondents, eg, academics. Public servants in particular supported new legislation as the best way to bring change. Submissions from public servants included:

*"I do agree we need to make law changes in order to improve our Public Service. I appreciate the existing Public Service law, however due to its age we must look at upgrading our legislation to better inform our current understanding of the Public Service and how better to develop it to be more meaningful for a modern New Zealand."*

External respondents had a more mixed view about whether the desired objectives, which were strongly supported, would best be achieved by legislation. We received some feedback that the reform process be slowed down with further consultation.

Dr Simon Chapple, Professor Jonathan Boston, and Dr Murray Petrie commented in their submission:

*"Because reform of the State Sector Act is a 'once in a generation' opportunity to improve the legislative framework, and important constitutional issues arise, we strongly recommend that this reform process be significantly slowed down to allow a broader and more in-depth consideration of the complex issues arising."*

A common theme was that the legislation be high-level and enabling, rather than detailed and prescriptive. While there was clear support for a law change and strong support for a new Act, some commented much of the proposed reform did not need legislation, and that the current framework allowed for these changes in the Public Service, but the changes had not been owned by Public Service leaders. A key theme throughout these responses was that new legislation would enable these changes by imposing specific duties and responsibilities on the Public Service to better reflect the communities they serve.

The consensus for the proposed legislation reform was underpinned by the desire to create an effective implementation mechanism for these changes, rather than a continuation of the status quo within the existing 1988 legislation.

## WHAT WE HEARD – RESPONSES TO CONSULTATION PROPOSALS

The next seven sections reflect the focus for change questions and the responses these received.



## THE CASE FOR CHANGE

We received approximately 140 responses on the Case for Change.

### A New Public Service Act

#### Problem definition and focus of change

##### *What we consulted on*

The problem definition included in the discussion document commented on how a previously unified Public Service was fragmented by the State Sector Act, that too little was done to ensure a strong system 'centre', and that a range of issues have arisen from this. Overall, the issues fall into three groups:

- Fragmentation, including the narrowing of each department's focus on its own particular outputs and a short-term horizon.
- Effects on the capability of the Public Service, particularly among senior leaders.
- Concerns about the ethical foundations of the Public Service, including conventions around political neutrality and the provision of free and frank advice.

The focus of the review is on change to ensure the Public Service is able to:

- Deliver better outcomes and better services.
- Create a modern, agile and adaptive New Zealand Public Service.
- Ensure its constitutional role in supporting New Zealand's democratic form of government.

##### *What we heard*

Twenty-six responses related to the question whether they agreed or disagreed with the problem definition and focus of the legislative change. In addition, 16 respondents provided general feedback pertaining to the problem definition and need for law change. Most of the public servant responses and members of the public agreed, or generally agreed, with the problem definition and focus, while some of the other respondents were not convinced by the problem definition or expressed caution.

The concerns included comments that:

- The problem definition was either not sufficient or was not well matched with the legislative proposals. Some said the 'silo' problem was given too much emphasis, and some said there was a need for more evidence around the problem and consideration of a greater range of problems.
- the proposals would not achieve their objectives and that other changes, like ministerial portfolio arrangements, might be more effective
- The implications of the Treaty had not been analysed sufficiently

## Need for Law Change – Amend Existing Act or Develop New Act?

### *What we consulted on*

The specific proposals were:

- The changes are best introduced by way of an entirely new Act (based on the large volume of change needed, and more importantly, on the symbolic and signalling effect of a new Act); and
- The title of the Act be the “Aotearoa New Zealand Public Service Act”.

### *What we heard*

Of the 118 responses, approximately 80 respondents supported legislative change. This included strong support from public servants. Others supported law change in some areas but identified that non-legislative measures were also needed.

Twenty-five submissions included a response to the question whether we should amend the State Sector Act or develop a new Act. Nearly all respondents supported the development of a new Act. Some respondents acknowledged that the proposed changes were possible within the existing framework but that these changes had not been implemented. Some respondents commented this was due to the model of short-term chief executive employment contracts arising from the 1988 Act. They believed changes would not be implemented within the existing framework because there were no specific obligations for chief executives to make such changes.



## THE UNIFYING PURPOSE, PRINCIPLES AND VALUES OF THE NEW ZEALAND PUBLIC SERVICE

### Focus of change

The key objective of the reform is to unify the Public Service to increase the efficiency, accountability and transparency of cross-sector collaboration. To do this, there is a need to unify the Public Service around fundamental common elements.

### The proposed principles of the Public Service included in the Discussion Document were:

- Political neutrality
- Free and frank advice
- Merit selection
- Openness
- Stewardship

### The proposed values of the Public Service:

- Impartial
- Accountable
- Behave with integrity
- Respectful
- Committed to Service

### The proposed purpose of the Public Service:

The Public Service exists to improve the intergenerational wellbeing of New Zealanders, including by:

- Delivering results and services for citizens
  - Organise, provide and purchase services
  - Design and operate regulatory systems
  - Anticipate and manage future risks and opportunities
- Serving the Government of the day and successive governments effectively and efficiently
  - Provide advice that supports Executive Government to

make decisions

- Implement Government policies
- Undertake the administrative functions of Government
- Supporting continuity of democratic government
  - Serving government with professionalism and political impartiality
  - Maintaining public trust and confidence in good government
  - Upholding the rule of law
  - Assisting the orderly transition between one government and its successor.

### What we consulted on

The specific questions were:

- Should the purpose, principles, and values of the New Zealand Public Service be included in the Act? Why do you think that?
- How should the principles and values be enforceable?
- How can the Act help build the trust and confidence of citizens in the Public Service?
- How much detail should be included in the Act and how much should be specified elsewhere in guidance and requirements issued by the Commissioner?
- Do you agree with the way we have articulated the purpose, principles and values? Are they clear and compelling?
- Are there any concepts you think are missing? What are they, and why do you think they are important?
- Do you see any constitutional implications arising from these proposals and, if so, are there any risks or costs that we need to be aware of?

- Do you agree with the extended scope of the New Zealand Public Service proposed in this paper? Do you see any problems in how this might operate in practice?
- What entities do you think should be covered by the purpose, principles and values in the Act?
- What is your view on the inclusion of Independent Crown Entities in the scope of the New Zealand Public Service?
- Education – An ongoing reiteration of the PPV with leaders acting as exemplars, and investment in a wider infrastructure to encourage integrity and good conduct.

Most respondents believed that the Act itself would not build trust and confidence in the Public Service. Rather, it should establish an enabling process for a non-legislative implementation programme.

Several respondents commented on the need for clarity over who is responsible and accountable for actions, through meaningful enforceability. Further, these responses reflected a desire to help citizens to hold those responsible to account, whether they worked in the Public Service, were ministers, or members of the Government. A number of respondents also identified the need for the PPV to be reflected in the decision-making process and informed by the Open Government Partnership themes. Implicit in this was the need for the Public Service to reflect diversity and inclusiveness, and workforce development underpinned by equity. Most respondents considered the Act should be high level and as simple as possible, with just enough detail to achieve the desired outcomes. Any guidance and requirement details should be issued by the Commissioner.

The PSA further commented:

*“This section of the new act should also include a balancing statement that public servants have the same civil and employment rights as other New Zealanders and that, in supporting the principle of political neutrality, public service employers have an obligation not to overstep these rights. This obligation could be further supported by the act enabling the Commissioner to agree with the PSA a “charter of rights” for public servants.”*

*Do you agree with the way we have articulated the purpose, principles and values? Are they clear and compelling?*

The majority of respondents commented on perceived gaps in the proposed PPV. A large number of responses said the proposals did not reflect te Ao Māori. Many considered wider consultation was needed to ensure modern New Zealand society and expectations were reflected in the Act and were also meaningful to public servants. Some responses stated that as an overarching element, there needed to be a much clearer articulation of Treaty of Waitangi rights and responsibilities, and how these would shape the delivery of services and responsibilities.

Some respondents said the PPV interrelated with inclusion and diversity. They suggested the Act should be explicit that merit could include ethnic and cultural considerations to ensure the Public Service recruited Māori and Pacific people to reflect and serve the needs of different communities. Some made a link between stewardship and free and frank advice, as public servants needed to provide advice based on the best policy and evidence consistent with the longer-term vision.

### What we heard

*Should the purpose, principles, and values of the New Zealand Public Service be included in the Act? Why do you think that?*

There were approximately 600 responses to the questions on purpose, principles, and values ('PPV'). Most of the respondents agreed that the PPV should be included in the Act.

*“It makes sense to embed the proposed fundamental principles and values in a central piece of legislation. A clear articulation of these principles and values in law will reinforce their importance, providing a unifying framework for the Public Service as it continues to transform over time.”*

This would recognise their importance and ensure successive governments gave them due consideration. It would also acknowledge the constitutional role of the Public Service – an important pillar of democracy. A strong theme that came through the responses was that it was important for the Public Service to have a set of shared expectations to foster a sense of collective identity.

*“A unified public service is better than the current fragmented provision of public services by a myriad of departments, Crown entities, Crown Research Institutes, State Owned Enterprises and contractors”*

Other respondents said including the PPV in the Act would help people find and refer to the expectations of the Public Service.

A minority commented legislating the PPV was unnecessary. Instead, the same could be achieved by reforming existing codes of conduct/ ethics in each department. A number of responses said the entities that were currently independent and were proposed to be encompassed by the Public Service would be expected to uphold common PPV, which risked their status as an independent check.

There were several key areas in which respondents thought the PPV could be enforced:

- Accountability – Chief executives, senior leaders, ministers and agencies should be held accountable for ensuring their agencies abided by them, with the SSC and chief executives (as a system leadership group) checking that these expectations were met.
- Employment – These should be woven into employment agreements and individual performance appraisals, codes of conduct, work plans, policy and strategy.

A small number of respondents commented a 'Spirit of Service' statement was needed in the PPV, to highlight the spirit of working with New Zealand citizens and the value of partnership. Other responses said the PPV needed to reflect the constitutional obligations of the Public Service, such as legislating a commitment to democratic and constitutional government (including proper citizen consultation and engagement), and a commitment to the rule of law (including principles of natural justice).

## Scope of the New Zealand Public Service

### What we consulted on

The specific proposals were:

- The Public Service should comprise;
  - Existing Public Service departments; and
  - All agencies in the existing State services that are subject to a positive degree of Ministerial influence through the power to appoint or remove board members and/or the power to direct the agency to have regard to government policy.

The specific questions were:

- Do you agree with the extended scope of the New Zealand Public Service proposed in this paper? Do you see any problems in how this might operate in practice?
- What entities do you think should be covered by the purpose, principles and values in the Act?
- What is your view on the inclusion of independent Crown entities in the scope of the New Zealand Public Service?

We received about 110 responses across these questions.

### What we heard

Less than half of the respondents agreed with the proposed extended scope of the Public Service. With Crown entities, some thought the proposals raised legal and constitutional issues, as entities are legally separate under the Crown Entities Act, with boards setting the direction and protection from Ministerial influence. A number of responses stated that the proposals would bring into the Public Service entities that had deliberately been put at arms-length from Ministers.

### Crown agents and autonomous Crown entities

About half of the 66 responses on inclusion of Crown agents and autonomous Crown entities were in support of including Crown agents and autonomous Crown entities in scope of the Act. Few of the Crown entity respondents favoured this.

Those who supported the expansion thought all Public Service entities should abide by high-level overarching principles and values, be part of a unifying ethos of delivering for the public good, or that from a citizen's perspective, all entities were part of government. Other respondents expressed caution that a one-label-fits-all might not be possible or desirable. Implicit in this was that the proposed PPV must be appropriate for all entities. Many respondents mentioned the need to maintain independence especially for entities that exercise quasi-judicial, commercial, monitoring, review, mediation or investigative functions. Others commented on the impact on the board's governance and the risks of undermining accountability.

The suggestions for alternative criteria for an expanded Public Service included:

- a potential contribution to system-wide approaches and cross-agency collaboration
- a balance between maintaining independence and the desire to be subject to the PPV and Māori/Crown provisions.

### Independent Crown entities (ICEs)

In the 46 responses on the proposal for inclusion of independent Crown entities, all the Crown entity respondents opposed this. Most of the Public Service respondents supported inclusion, either fully or for some aspects.

Of those who support inclusion, a number of respondents explicitly acknowledged the importance of maintaining the independent decision-making of ICEs. Some respondents who favoured inclusion suggested that wider criteria should be used rather than just the degree of Ministerial influence, eg, the potential to contribute to system-wide approaches and cross-agency collaboration.

Crown entity opposition to the inclusion of ICEs in the Public Service is based on their need for real and perceived independence from Ministerial direction or control.

*"Whilst it may be true that to many members of the public there is little distinction between departments, agencies, and independent crown entities in terms of service to the public, there is nonetheless a fundamental distinction that needs to be preserved"*

A number of respondents commented on particular reasons for exclusion, including the need for independence from competing government and centralised policies and tension between entities' own statutory purpose and 'serving the government of the day'. Others expressed caution regarding the introduction of ambiguity or incongruity in governance roles and responsibilities.



## RESPONDING TO THE NEEDS AND ASPIRATIONS OF MĀORI

### Focus of change

The discussion document proposed additional recognition be given to the Treaty partnership in legislation to deliver meaningful results for Māori. This would mean the Act would have specific reference to the Public Service's support of the Māori/Crown relationship and take into account the Treaty of Waitangi and its principles.

### What we consulted on

The specific proposals were:

- A prominent stand-alone clause that was clear about the expectations of the Public Service in relation to the Treaty partner and contained guidance to support the public sector in building its capability. The clause could set out provisions for:
  - **Engagement, participation of and partnership with Māori:** Proactive informed and collaborative approaches that were mutually beneficial and strengthened the relationship.
  - **Delivering services and results:** Services that were responsive to, accessible to, and worked for Māori and whānau, and well-informed decisions and interventions that improved results.
  - **Workforce composition and capability:** A workforce that valued, reflected and understood the communities it served, was valued for its cultural competence, and empowered Māori to succeed as Māori in the Public Service.
  - **Leadership and culture:** Collective accountability for a culturally competent Public Service that delivered with and for Māori and was committed to support Māori in leadership and decision-making roles.

- In addition to a prominent stand-alone clause, we proposed the Act would include explicit provisions to strengthen and clarify the Commissioner's and chief executives' collective responsibilities. These provisions would include responsibility for developing the cultural competence and capability of the Public Service, supporting Māori leadership within the Public Service and ensuring the Public Service had strong relationships with Māori, was responsive to the needs and aspirations of Māori and advanced opportunities to work with Māori.

We also posed some general questions that generated detailed feedback about how the Public Service could improve its responsiveness for Māori:

- Does this proposal provide for an appropriate contemporary expression of the Public Service's support for the Crown/ Māori relationship? Why or why not?
- Are there any aspects you think are missing? What are they, and why do you think they are important?
- What do you think are the systemwide priorities to ensure that the Public Service will deliver for Māori?
- How should the Public Service operate to enhance the relationship between the Crown and Māori?
- What else could improve the relationship and deliver better results for Māori?
- What agencies should be covered by the expectations of the Public Service in relation to Māori?

We received approximately 340 responses across these questions.

## What we heard

About 90 percent of responses to the questions supported the proposals or view them as a positive.

*“Policy settings that affect Maori are political decisions. But the public service can do a lot to maximise the extent to which policies and programmes meet the needs of Maori and reflect the Crown’s Treaty obligations”*

Some respondents recommended further strengthening of statutory provisions, implementation mechanisms, or both.

Hui participants commented on the importance of reflecting genuine partnership in how the Public Service engages with Māori, moving beyond a consultation model to one that is based on co-design. Implicit in this was the change required in workforce composition and capability, to both support Māori to enter and reach leadership positions within the Public Service, and provide development and training for all public servants in te Tiriti, te reo, te Ao Māori and tikanga Māori. It was explicit in the PPV feedback that incorporation of te Ao Māori concepts, values and perspectives needed to be woven into the work and ethos of the Public Service.

The majority of respondents and attendees at the regional hui supported the formalising of leadership expectations for chief executives and providing for adequate guidance and oversight to ensure that leaders are held to account for performance. Implicit in this was the desire for formalising the responsibilities of the Commissioner as system lead for ensuring accountabilities for responsiveness to Māori across the Public Service. Others commented on the need to ensure modes of service delivery to Māori are prioritised.

A strong theme from regional hui was that the State Sector reforms should go further than the proposals, including:

- Explicit reference to the Treaty in a new Act, as distinct from the role of the Public Service in supporting the Māori/Crown relationship, or the duty to respond to the needs and aspirations of Māori.
- More emphasis on the public service working differently; partnership, reciprocity and active protection; new mechanisms for accountability
- Upgrading public service capability including in terms of cultural competence, te reo, and in terms of recruitment, development, definitions of leadership, and leadership development

Individual respondents’ comments in response to the questions included:

*“One of the main constitutional issues that is missing from the proposal is explicit reference and commitments to the Crown’s obligations to the Treaty of Waitangi.”*

*“Wherever possible there should be co-partnership at policy and operations design levels discussing parameters and desired outcomes of new or modified significant government initiatives.”*



## PEOPLE

### Diversity and Inclusion

The document described diversity as:

“[Diversity] involves ethnicity, gender, age, disability, sexual orientation, education, national origin, and religion. Inclusion means ensuring that employees feel valued, supported, and respected in the workplace”.

#### What we consulted on

The specific questions included:

- What should the Act say about diversity and inclusion?
- How can the Act help ensure that workplaces are diverse and inclusive?
- How can we ensure that the Senior Leaders Service is diverse and inclusive?
- What can we do to ensure the Public Service is diverse and inclusive?
- What else could promote the aim of a diverse, flexible and effective workforce?

In addition to these questions, there was an implicit question about whether the relevant existing provisions should be replaced by new diversity and inclusion content, or retained in some cases. While the existing provisions did not explicitly refer to diversity and inclusion, several provisions were relevant:

- Existing good employer obligations.
- Stewardship of departments.
- Equal employment opportunities.
- Appointments on merit.

The specific proposals were that the Act:

- Make explicit reference to diversity and inclusion.

- Would establish a duty upon the Commissioner to promote diversity and inclusion across the Public Service.
- Would establish a duty upon chief executives to promote diversity and inclusion within their departments.

#### What we heard

There were approximately 450 responses to questions proposed in the People chapter. There was strong support from respondents.

Most respondents believed that both visible and non-visible components of diversity should be valued, including lived experiences, socio-economic background alongside dimensions of gender, sexual orientation, ethnicity and disability. There was strong support for the Public Service to create inclusive work environments for its workforce, and to engage with people in New Zealand in an inclusive way.

There was strong support for senior Public Service leaders to value diversity and for diverse staff to be sufficiently supported into senior leadership roles. Implicit in this was the concern about the interpretation of merit and the desire for clarity around merit selection and diversity and inclusion policies. Respondents were in favour of legislating the role of the Commissioner to provide guidance on implementing these expectations, and to hold chief executives to account for how their departments perform.

Unions and staff network respondents wanted to help develop implementation tools relating to recruitment, development, leadership and retention of diverse staff.

Comments from Māori at hui supported diversity and inclusion as part of the shift to an agile, adaptive and unified Public Service, but they were not comfortable to have their needs considered as a subset of diversity. There was a clear message that meeting the needs and aspirations of Māori as a Treaty partner was the preferred formulation for workforce matters relating to Māori, and should be distinct from broader diversity policies.

## Merit Selection

### What we heard

References to merit were in responses about the PPV of the Public Service; workforce provisions; diversity and inclusion; and responding to the needs and aspirations of Māori.

A range of views on merit were expressed, including:

- Diversity policies diluted merit: merit selection meant there should be no positive discrimination in selection processes, remuneration, development opportunities or quotas.
- The 'best candidate' was assumed to be merit based, but there was no agreement on what 'best' meant.
- Interpretation of merit selection needed to be reviewed as it had led to a continuation of status quo.
- Merit needed to be clarified
- Merit being interpreted in a very traditional way, with too much weight given to academic achievement, and needed to include attributes such as cultural competence and language skills.

There were differing interpretations of merit and how it should be applied in practice. Some of these views reflected inaccuracies about a fixed definition of merit, or fear of diversity policies becoming compliance focused eg, quotas. Some of these views suggested that achieving representation across a workforce would lead to diverse and inclusive workplaces.

## Workforce provisions

### What we consulted on

Specific questions were:

- Do you agree that the legislation should enable the establishment of common terms and conditions for functions and professions across the Public Service? Why, or why not?
- Do you agree that the Commissioner should have the proposed level of oversight over pay equity negotiations?
- What could be the costs or risks in greater cross-Public Service coordination on workforce issues?
- What else could promote the aim of a diverse, flexible, and effective workforce?

The specific proposals in the document were:

- The Commissioner, in consultation with chief executives and relevant functional and professional leads, has the ability to negotiate, directly or through delegation common terms

and conditions for functions or professions across existing New Zealand Public Service departments.

- The Commissioner has the same role in respect of pay equity negotiations as the Commissioner has in relation to collective agreement negotiations.

### What we heard

Most respondents liked the proposals, and a consistent approach to employment, pay and pay equity across the Public Service, particularly if it enabled increased mobility between departments. The minority who opposed the proposals identified risks to flexibility, innovation, and the rights of individuals in moving to common terms and conditions. Others noted that mobility between departments was not always desired because there was value in individuals developing deep expertise in a single department

The New Zealand Council of Trade Unions - Te Kauae Kaimahi (CTU), commented the proposals could go further and that Public Service organisations should be required to be exemplar employers. The CTU stated in its submission:

*"The principle and aim of the State Sector as an exemplar employer should be to restore the State Sector as an excellent place to work, with good and fair workplace conditions and a positive culture and strong engagement with staff."*

The PSA commented:

*"There is a pressing need for an employment relations framework that helps facilitate whole-of-government practices and systems thinking; provides fair, secure and equitable pay and conditions to public servants; supports career development; eliminates price advantage through low-wages in contracted-out services; provides space for the collective voice of public servants to be heard through their union; and promotes the spirit of service among those delivering public services."*

The PSA commented that what being a 'good' or 'exemplar' employer means evolves over time and the definition in the new Act of 'exemplar' should enable the standards expected to evolve and develop over time to meet changed societal expectations. The Commissioner could be required to provide guidance to agencies about the application of this standard. The new act should provide clear pathways to enforce and ensure ongoing monitoring and evaluation of performance against this standard.

Other respondents also thought the proposed changes should not be restricted to the ability to negotiate terms for particular functions or professions. Some thought that oversight of pay equity should be the responsibility of a larger group, rather than just the Commissioner.



## ORGANISATIONAL ARRANGEMENTS

The specific proposals were:

- The Act should include four proposals to ‘strengthen the system design toolkit or address gaps’:
  - Public Service Executive Boards – support joined-up strategic policy, planning and budgeting around shared outcomes (strengthen the ‘Collective Accountability’ and ‘System Leadership Governance’ models in the System Design Toolkit).
  - Public Service ‘Joint-ventures’ – delivery vehicles enabling a small number of agencies to hold joint resources including assets and staff, and mechanisms to support sustained collaboration by larger numbers of agencies (fills a gap in the ‘Delivery Vehicles’ model in the System Design Toolkit).
  - Executive Agencies – support joined-up frontline delivery by many agencies (strengthens the ‘Federated Services’ model in the System Design Toolkit); and
  - Statutory Officers – provides the ability to establish new lines of Ministerial accountability for departmental functions without structural change (fills a gap in ‘Semi-structural Integration’ model in the System Design Toolkit).

Approximately 380 responses were received over the 14 questions relating to organisational arrangements.

### Public Service Executive Boards and Joint Venture Models

#### What we consulted on

The questions were:

- Do you agree that we need more options for departments to organise in ways that improve the outcomes and services for New Zealanders? Why, or why not?
- Do you agree that Public Service Executive Boards will help the Public Service deliver better services and outcomes? Are there any risks we should consider?

- What do you think about formal collective accountability of chief executives on Executive Boards? What are the benefits and risks of this approach?
- Do you agree that a joint-venture model would help the Public Service deliver better services and outcomes?

#### What we heard

Over half of the respondents supported the proposals, agreeing that we needed more options for organisational arrangements. Some respondents thought the ‘silo effect’ had some benefits, with some noting this ensures a focus on good management and accountability. Although many supported the need for change, some commented Public Service Executive Boards would not necessarily deliver better services and outcomes. These responses noted that further clarity was required around the responsibilities and accountabilities of these members and the criteria for independent members.

Some of those opposed to these proposals were concerned they may make chief executives accountable for matters outside their control and cut across the accountability of individual ministers to Parliament. Others commented that collaboration did not require legislation. Most responses broadly favoured a joint-venture model. Although, many argued that legislating this was unnecessary, and the proposed models were perhaps too complex or rigid for legislative purposes.

### Joint Ventures, Executive Agencies and Statutory Officers

#### What we consulted on

The questions were:

- Do you think that one of the three potential joint-venture models would work better than the others, and if so why?
- What are the benefits or risks of the Public Service using joint-ventures?
- What checks and balances are needed in the process of establishing joint ventures?

- Do you agree with the proposal for an Executive Agency model? Why, or why not?
- Do you agree with the proposal for a Statutory Officer model? What would the benefits or risks of this model be?

## What we heard

### Joint Venture Model

Approximately 90 responses to these questions. Approximately half favoured the proposed joint-venture models. The benefits identified were similar to those in the discussion document. Some responses favoured statutory joint-ventures, while others favoured non-statutory joint-ventures.

The risks identified for joint-ventures commonly focused on increased complexity of the system. There was general concern that many arrangements were not regularly reviewed and the possibility of overlapping roles between different organisations making the system harder for the public to comprehend. Most respondents agreed that existing system-wide checks and balances could be applied to joint venture models.

### Executive Agency Model

Approximately 25 responses to this question. More than half of the responses supported an executive agency model. Supporters noted it would be beneficial for citizen-centred services because organisations would be structured based on their functions 'rather than the reasons for their functions'. Others favoured the idea that there would be one unified point of contact.

*"The public service should do whatever is needed administratively to ensure that the burden of connection multiple services is not shifted to the person seeking support or services."*

### Statutory Officer Model

Approximately 20 responses to this question. More than half of the responses were indifferent about the proposal. There was, however, general support of the model as a way to broaden the mechanisms to create 'points-of-contact' between ministers and departments.

Those who supported the model noted that it was useful for ensuring focus on particular areas and independent action. Others thought the model offered the potential to reduce

financial and administrative costs. Some respondents identified the risk to the independence of the statutory officer given their reliance on the organisation they were established in for resources and the need for financial accountabilities to align with Ministerial accountabilities.

### Public Finance Act

The discussion document asked if respondents agreed with the potential implications of the specific proposals to the Public Finance Act. It gave opportunity for further comment on other changes that might be considered to the Public Finance Act.

Approximately 30 responses to this question. Many respondents thought that structuring the system and funding along portfolio lines would continue to impede cross-agency working. Others suggested that the Act should be amended to allow for collective financial accountability and resource utilisation. Further, it was noted that the budget process could be amended to promote greater clarity, accessibility and engagement by and of the public in line with open government.



## LEADERSHIP OF THE PUBLIC SERVICE

### Focus of change

As the reform is aimed at unifying the Public Service, the document proposed to “build a unified team of senior leaders who can move to where they are needed the most, while also developing their leadership capability”.

There were approximately 480 responses to 22 questions.

### What we consulted on

The specific questions were:

- Do you agree with the proposal for a Senior Leaders’ Service (SLS) in the Public Service?
- What are the benefits, costs and risks of our proposals for the SLS?
- How can we ensure that the SLS is diverse and inclusive?

The specific proposal was that the Act includes a provision enabling the establishment of a SLS Model.

There were approximately 110 responses to these questions.

### What we heard

About 50 percent of respondents supported the proposals. While about half commented legislative support was needed, others thought legislation was not required because agencies are already working collaboratively.

Some respondents commented the SLS can be introduced through the 1988 Act, but considered legislative change may be required to incentivise implementation. Others commented that for the SLS to work, the Public Finance Act may need to be amended to enable cross-agency work.

### Collective Responsibility and Accountability of Chief Executives

#### What we consulted on

The specific questions were:

- Do you agree with the proposal to include an overarching reference to the collective responsibility and accountability of chief executives in the Act?
- How do you think collective responsibility and accountability of chief executives could be best achieved? Are there any costs or risks that we should consider?
- Do you agree with the proposal for the Commissioner to bring chief executives together and work with them to improve the system? Why, or why not?
- Should chief executives have a duty to work with each other and the Commissioner to improve the system? Why, or why not?
- What types of issues do you think would benefit from collective system leadership, and why?
- How do you assess the benefits, costs and risks of this proposal?

Approximately 150 responses were received over these six questions.

The specific proposals in the document were:

- That the Act include an overarching reference to the collective responsibility and accountability of chief executives in the New Zealand Public Service Act by including:
  - Collective responsibility for ensuring the health of the Public Service;
  - A duty to act in the collective interests of the Public Service; and
  - Reference to collective responsibility and accountability in chief executives’ conditions of employment.

- That the Act place a duty on the Commissioner to convene the chief executives as a chief executives' team, and work with them to deliver stewardship of the system, its performance and its delivery.
- That the Act place an equivalent duty on chief executives to work with the Commissioner and other system leaders to deliver stewardship to the system, its performance and its delivery.

## What we heard

About three-quarters of respondents favoured the proposals. A number of responses noted that there were existing mechanisms to work collaboratively, and the focus should be on strengthening the accountability for the collective stewardship of the system and those to whom accountabilities are owed. The existing mechanisms mentioned are collective workplans, letters of expectations, performance expectations, contractual obligations and annual reports.

They also recommended re-naming chief executives, a corporate term, as secretaries, which better reflects their role as public servants.

Some respondents supported providing a mechanism by which chief executives are held collectively accountable for a joint appropriation covering a collaborative inter-agency activity. Of these responses, many thought consideration needs to be given to the dedication of resources to respond to the collective accountability. Others noted that a move from the managerialism model to a more stewardship-based model needed to accompany these changes. A number of respondents identified consideration needed to be given to technical specialists who work collaboratively on system-wide issues, as well as chief executives. Further, many respondents favoured the creation of shared objectives and accountability for those objectives.

Some respondents noted that collective accountability could be incentivised by requiring chief executives to achieve these shared objectives as a performance measure. Others said chief executives should focus on identifying the true drivers of collaboration (eg, trust, healthy debate, powerful conversations, demonstrating curiosity, understanding others' perspectives) and recruit leaders with these qualities. A number of respondents noted that chief executives should see themselves as leaders of the Public Service, rather than of a particular department.

*"We support the proposal that the Act explicitly includes the concepts of collective responsibility and accountability for chief executives. As a Crown agent tasked with delivering long-term economic benefits for New Zealanders, taking a stewardship perspective is already part of our mandate."*

## Functional and Professional Leadership

The discussion document proposed a horizontal leadership model to strengthen cross-system collaboration. Functional leads were described as "[promoting] excellence in how the Public Service performs in an aspect of its business". Professional leads were described as "responsible for developing the capability of core professional groups on which the Public Service depend".

## What we consulted on

The specific questions were:

- Do you agree with the proposal to recognise the role of functional and professional leads? Why, or why not?
- How do you think we should define the roles of functional and professional leads?
- How do you assess the benefits, costs and risks of this proposal?

The specific proposals were:

- That the Act empowers the Commissioner to appoint functional and professional leads at the level of a chief executive.
- That the Act includes a definition of the role of functional and professional lead.
- That the Act gives the functional and professional leads the power to publish guidance and standards which may, subject to Ministerial agreement, have mandatory effect within the Public Service.

Approximately 60 responses were received over these three questions.

## What we heard

Approximately 60 percent of respondents supported the proposals. Some commented the proposals give clarity around decision rights and ensured accountability for delivery. Others noted that there needed to be a decision-making framework to determine where leads were necessary including their role, function, capability, governance, funding, decision rights, monitoring and performance measurement. Some respondents believed the proposals would better equip designated leads to focus on long-term capability issues.

## Designation, role, functions and powers of the Commissioner

### What we consulted on

The specific questions were:

- Do you agree with the proposed designation, role, of the Public Service Commissioner? Why, or why not?
- Specifically, what do you think about the proposal to make the role of Commissioner in the government formation process explicit in the New Zealand Public Service Act?

- What do you think the consequences will be of the proposed changes to the designation, role, and the functions of the Public Service Commissioner? Are there benefits, costs or risks that we have not considered in this document?

The specific proposals were:

- **Designation:** That the designation 'Public Service Commissioner' replace the existing title of 'State Services Commissioner'.
- **Role:** That the Act set out the Commissioner's role as the leader and head of the New Zealand Public Service.
- **Functions:** That the Act organise the Commissioner's functions in a single overarching statement (expressed in terms of leading the Public Service in accomplishing its purpose, adhering to its principles, and practising its values), with operational provisions elsewhere.
- **Powers:** That the Act broadens the scope for the Commissioner to issue instructions and require agencies to follow them on integrity and conduct matters. This would apply to agencies in respect of which the Commissioner can currently set, issue, apply and enforce a Code of Conduct.

Approximately 50 responses were received over these three questions.

## What we heard

There were few substantive responses. A small number of responses supported the proposals, while other responses expressed caution. Of these responses, there was concern regarding the concentration of power in one person and the impact that centralisation of power will have on objectives focused on collaboration and flexibility. Implicit in this was a desire for more collective responsibility, with use of independent and/or other checks and balances, and clarification regarding an appeal process for disputes. These responses reflected a general concern, particularly in respect of Crown entities, of a return to an overly bureaucratic and constraining structure that loses the benefits of more open thinking and innovation that has occurred under some board-led organisations in the Public Service.

Several responses stated that these proposals required additional infrastructure to ensure the maintenance, design and construction of a single Public Service worked for everyone.

## Commissioner Appointment and Structure

### What we consulted on

Three options were put forward for the appointment of the Commissioner (and therefore the composition of the Commission), inviting feedback on preferences, benefits and risks, as well as any other options.

The specific proposals were:

- Option 1: Enhanced status quo (emphasis on leadership and influence)
  - Five-year term (rather than up to five years), renewable.
  - After consultation with the leader of each party in the House.
  - Deputy Commissioner to have same status and rank as a departmental chief executive.
- Option 2: Commission with specified roles (emphasis on collective knowledge, skills, experience)
  - Chief Commissioner with sole authority, possibly for single seven-year term.
  - Deputy Commissioner, with power to act if Commissioner incapacitated or absent.
  - One or two other Commissioners whose role was to assist the Commissioner, under the Commissioner's control; expected to have delegated responsibilities.
- Option 3: Chairperson model (emphasis on checks and balance through consensus-oriented mode of operation)
  - Chairperson: casting vote/final determination if required.
  - Deputy Chairperson: power to act if Chairperson incapacitated or absent.
  - One or two other Commissioners.

We received approximately 40 responses on these options.

## What we heard

There was no clear consensus on the proposals. A broad range of views were expressed. One respondent thought that the role and structure of the Commissioner and its office was pivotal to effecting change to benefit Māori. They wanted to see mechanisms for accountability of the Commissioner to include accountability to uphold Treaty obligations and deliver results with and for Māori. Option 1 was supported by three respondents. One respondent noted a single point of independent leadership would be more effective in bringing together chief executives.

Four responses supported Option 2 for reasons including this was the most democratic and appropriate for the tasks of the Commission. Others noted that it provided for one ultimate decision maker, but with support that provided a range of wide skills and experience.

Dr Chapple, Professor Boston, and Dr Petrie commented they support a Public Service Commission with several members, including a Chief Commissioner, a Deputy Commissioner, and one or two Commissioners – potentially one of whom could be the Chief Executive of the Commission. They thought a multi-member Commission will be all the more important if the proposed Public Service Act includes a significant increase in the Commissioner's decision rights.

Two responses favoured Option 3. One noted that it provided a more robust oversight process, while still enabling flexibility to act. Others thought that decision-making would benefit from a diversity of views and experience and it was imperative to have an appropriate check on the exercise of considerable power.

Some submitters considered they did not have sufficient information to arrive at a preferred option. Others commented that none of the options were necessary or sufficient. One response noted that considering the proposed role for the collective of chief executives, the Commissioners could serve as the chair of the collective, in the role of first among equals rather than an overlord. Another response supported a Commission with several members – a chief, a deputy and one or two others (of whom one potentially could be chief executive) – especially if the Act included a significant increase in the Commissioner’s decision rights.

There were further responses on whether there should be multiple Commissioners. The views were also mixed. Most respondents favoured having multiple Commissioners, while a number of respondents favoured a single Commissioner. Some supported a non-Māori Commissioner and a Māori Commissioner. Others supported a single Commissioner with several deputies. Several responses stated that the number of Commissioners was immaterial as it depended on the accountability mechanisms put in place to chief executives, the Minister and the wider public.

## Chief Executive of the Public Service Commission

### What we consulted on

The specific proposals were:

- Separate the role of chief executive of the Commission from the Commissioner’s role by establishing it as a separate position
- Fill the position of chief executive of the Commission by
  - Transferring an existing chief executive into the position; or
  - Appointing another person through an application process.

We received approximately 40 responses on these proposals.

### What we heard

There were limited responses, with generally mixed views on the proposals. Responses in favour of a separate chief executive noted that it enabled the Commissioner to act more independently and focus on leading the system, while the chief executive would manage the operations. Opposing responses were that the Commissioner should hold the chief executive role to retain executive control.



## ENHANCING CAPABILITY OF THE PUBLIC SERVICE TO SERVE SUCCESSIVE GOVERNMENTS

### What we consulted on

The questions were:

- Specifically, what do you think about the proposal to make the role of the Commissioner in the government formation process explicit in the New Zealand Public Service Act?
- Should a provision for a Long-Term Insight Briefing be provided for in the legislation?
- What do you think the Long-Term Insight Briefings should contain?
- Which length of time should the Long-Term Insights Briefings cover?
- Who should develop a Long-Term Insights Briefing?
- Are there any further options for how the Public Service could provide data and analysis to help citizens, political parties, and Ministers?
- Are there any other ways for the Public Service to support successive governments?

The specific proposals were:

- That the Act include a requirement to prepare a sector-level, long-term insights briefing mid-way through the electoral cycle that would outline forecast key trends, opportunities and risks in a sector.
- A requirement for a sector-level briefing supporting stewardship by covering the medium to long term would include:
  - A document produced mid-way through each election cycle (this could occur two years after an election and one year before an election).
  - Forecast key trends, opportunities and risks in a sector over the medium to long term.

- A responsibility on relevant sector chief executives to produce the briefing, with support from relevant chief executives to help inform development.
- A requirement to produce a Long-term Insights Briefing to be included in the Act.
- Other options to support the provision of information to the public and political parties:
  - Officials could be seconded to the Office of the Leader of the Opposition and / or other key shadow portfolios.
  - Departments could have a more formalised role providing long-term information on key trends, opportunities and risks to Parliamentary Select Committees.

There were approximately 130 responses to these six questions.

### What we heard

Many respondents supported making the role of the Commissioner in the government formation process explicit in the Act. Many responses strongly supported the creation of a long-term insights briefing as a legislative requirement. These respondents favoured a medium-term period of 10 years, on average. Some respondents thought there should be a stronger government induction process and online improvements to ensure existing information on medium and long-term trends was communicated efficiently.