



Report Title:	Implementing Machinery of Government Changes		
Report No:	2023-0294		
Date:	27 November 2023		
To:	Hon Nicola Willis, Minister for the Public Service		
Action Sought:	Discuss this briefing with officials	Due Date:	27 November 2023
Contact Person:	Hannah Cameron - Deputy Commissioner Strategy and Policy		
Contact Number:	9(2)(a) privacy		
Encl:	Two appendices	Priority:	Medium
Security Level:	IN CONFIDENCE		

Executive Summary

As Minister for the Public Service you are responsible for ‘machinery of government’ changes

- 1 As Minister for the Public Service, your colleagues must consult you on any proposed changes to the organisation or structure of government agencies, sometimes called ‘machinery of government’ changes. You may also have a role in implementing these.
- 2 Some changes may be minor, such as a proposal to transfer a small, discrete, function from one agency to another. Others may be more substantial, such as the disestablishment, establishment, and amalgamation of agencies. Not all proposed changes will likely be desirable or necessary to achieve the Government’s policy objectives.
- 3 New Zealand has a lot of different government organisations compared with other small, advanced economies. There may be opportunities to rationalise and simplify this system. We can provide further advice on this if you wish, including how this could be achieved over time through a ‘cluster to consolidate’ approach.

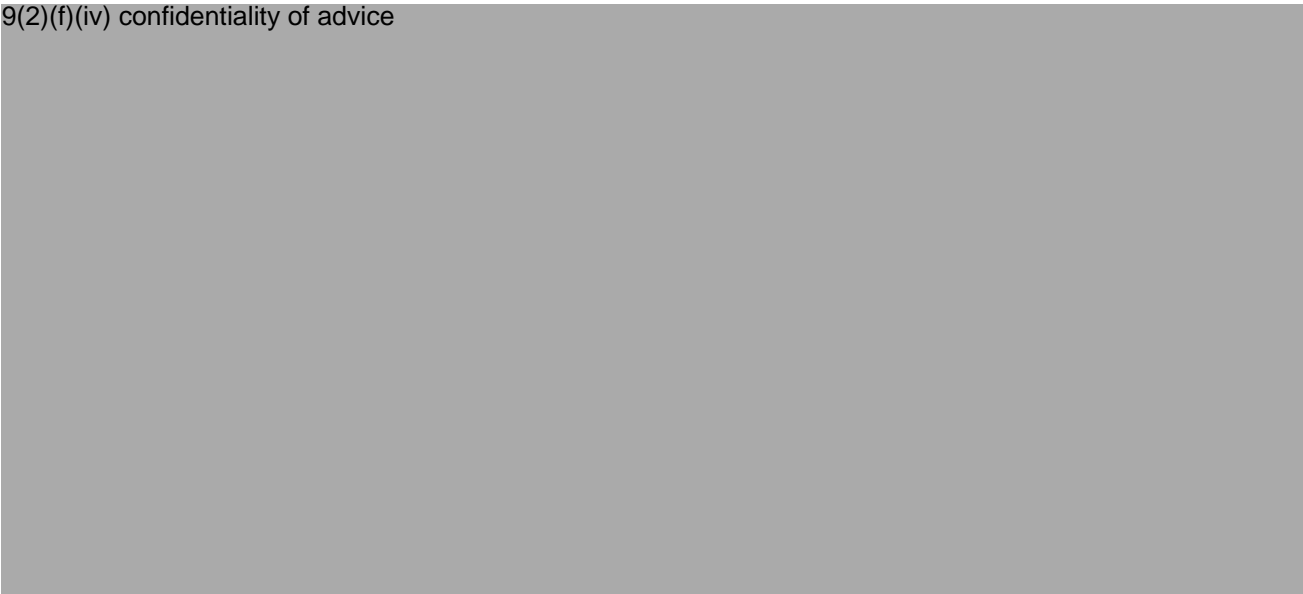
Te Kawa Mataaho Public Service Commission role

- 4 Te Kawa Mataaho Public Service Commission (the Commission) supports you to make decisions on the most appropriate ways to use machinery of government to deliver Government priorities. We will provide you with advice about institutional options, risks, trade-offs and ways to implement changes.
- 5 Machinery of government proposals can emerge from policy work being led by other ministers and at other times we lead this work ourselves. Whoever is leading the policy work, we will brief you as necessary or on request.
- 6 We have prepared advice relevant to the significant changes that are to be prioritised by the Government. We can provide further advice on each of these proposals and support you as you work with your colleagues on them. We will also continue to work with officials and brief you as work progresses.

*Establishing a new **Ministry of Regulation***

- 7 Government has committed to establish a Ministry of Regulation to assess the quality of new and existing legislation and regulation. The new Ministry will be funded by disestablishing the Productivity Commission and consolidating some regulatory quality work across the public sector where appropriate. We expect you and the Minister for Regulation to take a joint paper to Cabinet to progress this work. We can advise on how to achieve these changes and the range of options for organisational structures that could be considered.

9(2)(f)(iv) confidentiality of advice



*Disestablishment of the **Māori Health Authority***

- 10 You will be consulted by the Minister of Health on the proposal to disestablish Te Aka Whai Ora – the Māori Health Authority (MHA). We can provide advice on ensuring timely and effective transition, alternative institutional arrangements for the MHA’s functions and ways to ensure the Crown can continue to discharge its health responsibilities to Māori.

Recommended Action

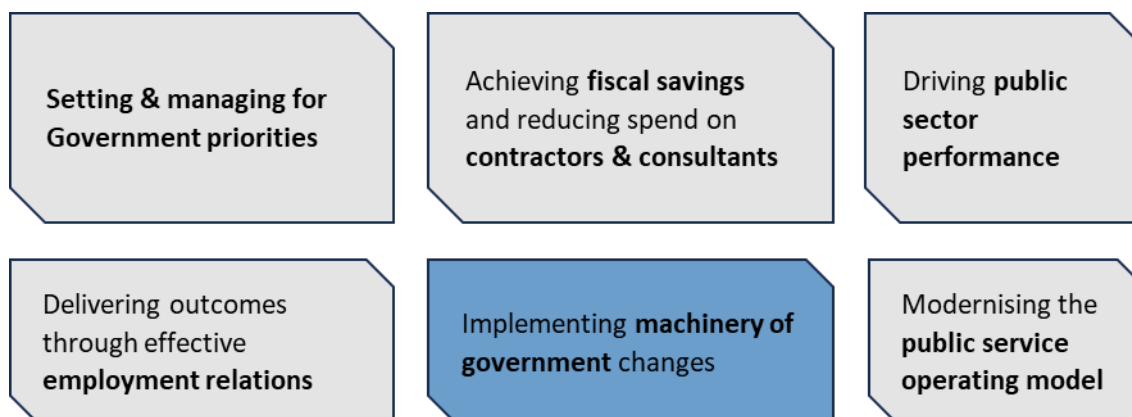
We recommend that you:

- a **agree** to discuss this briefing with officials
Agree/disagree
- b **indicate** whether you wish to receive further advice on each of the four proposals contained in this briefing, or any other areas of interest for you regarding machinery of government

Hon Nicola Willis
Minister for the Public Service

Purpose of Report

- 11 This report informs you of your role, and the role of the Commission, in setting up, disestablishing, or making other changes to government organisations and systems. The report also outlines our preliminary advice on the Government’s potential priorities in this area.
- 12 It is part of the first tranche of interrelated briefings on key focus areas that we set out in our briefing on supporting your first 100 days [2023-0289 refers]:



Context

- 13 The Government has signalled an intention to:
 - a. establish a Ministry of Regulation
 - b. establish a National Infrastructure Agency
 - c. begin disestablishing Te Pūkenga and restoring local decision-making, and
 - d. introduce legislation to disestablish the Māori Health Authority.
- 14 This report outlines our preliminary advice on ways to deliver these commitments and we are ready to provide more detailed advice on each. We will provide further advice on any other structural proposals that arise as the Government finalises its work programme.

Your responsibilities for ‘machinery of government’ changes

- 15 As Minister for the Public Service, you are responsible for working with your Cabinet colleagues to ensure the systems of government are best arranged to deliver on Government priorities. The Cabinet Manual requires your colleagues to consult you on any proposed changes to the organisation or structure of government agencies. These changes are often referred to as ‘machinery of government’ changes or changes to system-design and architecture.
- 16 Some proposed changes may be relatively small, such as a proposal to transfer a small, discrete, function from one department to another. Other proposed changes may be more substantial. Examples include:
 - a. creating, amalgamating, or disestablishing agencies, or establishing new ‘arm’s length’ Crown entities
 - b. bringing together public service chief executives in board type arrangements, such as interdepartmental executive boards, to address issues which cut across portfolios, and

- c creating a specific focus through a branded business unit in an existing agency.
- 17 Proposals for change may come from policy proposals, recommendations from internal or external reviews, or Ministerial direction. As Minister for the Public Service, you can also instigate and drive change. Change proposals have a variety of aims. For example, they may aim to shift decision rights to improve governance or risk management, or reduce fragmentation and improve coherence, or deliver more responsive, efficient or new services to ministers or the public.
- 18 In some instances, organisational and structural change may be necessary or desirable to achieve these aims, or to better deliver Government policies and priorities. In other instances, proposed changes may be unlikely to successfully address the kinds of problems they are intended to address, have unintended consequences, be complex to manage, or would likely prove costly and disruptive. It may be possible to achieve desired aims with no structural changes at all.
- 19 You may also have a role in the implementation of some changes. For example, establishing an interdepartmental executive board requires Orders in Council to be drafted, taken to Cabinet and signed by the Governor-General. Cabinet may request that you prepare these Orders in Council.

Public Service Commissioner's statutory role to advise on machinery of government

We will provide advice on options, risks and trade-offs, as well as implementation

- 20 We support you in fulfilling your responsibilities in this area. Under the Public Service Act 2020, the Public Service Commissioner (the Commissioner) has a statutory function to provide you with advice on:
 - a possible improvements to delivery of services and inter-agency cohesion
 - b agency establishments, disestablishments, and amalgamations, and
 - c the governance, allocation, and transfer of functions to and between agencies.
- 21 We do this by providing you with advice on system-design options as well as identifying issues, risks and trade-offs associated with these options. This will help you to ensure that the institutions of the public sector are best placed to deliver on the priorities of your Government.

The role of the Commission can vary depending on the nature of the proposal

- 22 Many machinery of government proposals emerge from policy work being led by other ministers. This could include those your Government has already signalled and which are discussed further below. We will support and advise relevant agencies on any proposals that emerge from this work to ensure the proposals are well informed and meet your expectations.
- 23 We may take the lead on proposed machinery changes where the proposal has significant machinery of government implications, fits best within your portfolio, or when an objective perspective is required. We recommend that we lead proposals that may directly affect the agency that would normally provide advice to a specific minister. Given the size of the Commission we would need to make strategic decisions as to when we would get involved.
- 24 Whoever is leading the policy work, we will brief you as necessary, or on request, as it progresses. We will also provide advice on the steps needed to implement a change, once a

decision has been made, and your role in that process. So, for example, some changes may require primary legislation, an Order in Council, or simple Cabinet agreement.

- 25 There may be opportunities to clarify, and even move, agency functions. Government proposals to transfer responsibility for the Arms Act 1983 to the Ministry of Justice and the Firearms Safety Authority to another agency are examples of this. We will provide additional advice on these proposals as they progress.
- 26 Done well, clarifying and moving functions can help facilitate clear accountability for cross-agency working and drive delivery of priority outcomes, aims discussed further in our briefing on setting and managing for Government priorities [2023-0290 refers]. For example, the Department of the Prime Minister and Cabinet (DPMC) has functions which may no longer fit with its core role. These functions may, however, align well with the work of other agencies and there may be benefit in moving them.
- 27 We anticipate you will be consulted on proposals to clarify DPMC's functions. As such proposals would directly affect DPMC officials the Commission would expect to work closely with DPMC, and lead aspects of the work, to provide an objective perspective. We will monitor this work and brief you on it as it develops.

There may be opportunities to simplify New Zealand's public sector

- 28 In addition to discrete proposals which arise from other areas of policy work, we can provide advice on consolidating and simplifying the system of government to ensure it is best able to deliver on Government priorities, now and in the future.
- 29 Compared with other small, advanced economies (such as the Scandinavian countries) New Zealand has a large number of government organisations, especially departments, of which there are currently 38. See **Appendix One** for an overview of agencies in the public sector.
- 30 There may be opportunities to consolidate, rationalise, and simplify this system over time. This can build on recent reforms which have, for example, sought to provide shared platforms for administrative and back-office functions, through system and functional lead roles, and new organisational options, such as interdepartmental executive boards and functional chief executives, with relatively low establishment costs. Information on how interdepartmental executive boards and system leaders can be utilised is set out respectively in briefings on Government priorities [2023-0290 refers] and the Public Service operating model [2023-0295 refers].
- 31 Significant change can be complex to manage, have high transaction costs, and reduce productivity in the short-term. For these reasons we recommend a 'case-by-case' approach to machinery of government change, rather than whole-sale change, with a focus on potential changes likely to make the biggest difference to priority outcomes.
- 32 Should you wish to consider options for rationalising and simplifying the system of agencies, we can provide further advice including how any change might be phased through a 'cluster to consolidate' approach.

Preliminary advice on delivery of four key proposals


- 33 Your Government has already signalled some machinery of government changes, some of which will be included in the 100 day plan. Our initial advice is outlined below. See **Appendix**

Two for other proposals that have machinery implications. We will provide further advice as needed.

Establishing a Ministry of Regulation

- 34 Government has committed to create a Ministry of Regulation to assess the quality of new and existing legislation and regulation, to be funded by disestablishing the Productivity Commission and consolidating some regulatory quality work across the public sector where appropriate. We expect that the Minister for Regulation will take a paper to Cabinet to get agreement either before Christmas, or early in the New Year. It would be appropriate that this is a joint paper with yourself, both as the Minister for the Public Service, and as the Minister responsible for the Treasury (and therefore the Productivity Commission)
- 35 We can provide advice on options on the potential form of the new Ministry, as well as the possible approaches to disestablishing the Productivity Commission. There are likely to be an option to implement these changes in a staged way, with some work getting underway within Treasury while full processes can be undertaken to reprioritise functions and funding and stand up a new organisation. You may also wish to consider whether there are any capabilities or functions currently in the Productivity Commission that should be re-assigned to another agency.
- 36 The cost of establishing a new organisation will need to be considered, as well as the potential benefits that a new agency could have if it could utilise Treasury's existing oversight mechanisms and capabilities. Based on the current staffing of the relevant Treasury and Ministry of Business, Innovation and Employment (MBIE) units and the \$6m per year funding of Productivity Commission, it would likely be a relatively small unit with 20-30 staff.

9(2)(f)(iv) confidentiality of advice



Introducing legislation to disestablish the Māori Health Authority

Background

- 50 The Minister of Health, supported by the Ministry of Health, is expected to lead work on the proposal to introduce legislation to disestablish Te Aka Whai Māori Health Authority (MHA). You will be consulted by the Minister of Health on machinery of government implications.
- 51 The MHA is established by the Pae Ora (Healthy Futures) Act 2022. It was established based on a recommendation of the Waitangi Tribunal, which found the Crown in breach of the Treaty in the health sector and represents part of the Crown's response. It has been operational since July 2022 and its focus, to date, has been on the services it has inherited from District Health Boards and the Ministry of Health.
- 52 Legislation would be needed to disestablish the MHA as well as prior consultation with the Hauora Māori Advisory Committee. We anticipate that the policy and drafting required is relatively straightforward as existing functions could be performed by Te Whatu Ora and the Ministry of Health. Further decisions would need to be made about the allocation of these functions.

Initial steps which could be taken

- 53 There are operational changes which could be made in advance of new legislation, such as moving services and staff using Letters of Expectation to the Board and the Health Sector (Transfers) Act 1993.
- 54 There are organisational options which help to minimise disruption and ensure that health services meet Māori health needs. For example, you could explore MHA initially becoming a branded business unit of the Ministry of Health or Te Whatu Ora as a transitional step ahead of longer-term decisions about the division of functions. We can provide additional advice on this and other available options.

Next Steps

- 55 We will provide your office with further advice and information on the four key proposals outlined in this briefing if you indicate you would like this.
- 56 We will continue to work with agencies responsible for leading policy work on the areas outlined in this briefing, and any other policy areas which may arise, and will brief you on the progress of this work as necessary or upon request.
- 57 We can also advise you further on steps you could take to simplify the system of government over time.

Appendix One: Overview Public Sector Agencies (Oct 2023)

Sectors (eg. Built Environment) are for illustrative purposes only

System	Justice	Social Development	Health	Education	Culture & Internal Affairs	Built Environment	Natural Environment	Security & Central Agencies	Commerce & Workplace	
Public Service	Department 31	Justice	Social Development	Health	Education	Te Puni Kōkiri Min of Māori Dev	Transport	Environment	Public Service Commission	MBIE
	Departmental Agency 7	Corrections	Oranga Tamariki Min for Children	Cancer Control	ERO	Women	Housing Urban Development	Conservation	DPMC	MFAT
		Serious Fraud		Te Whatu Ora Health NZ	NZQA	Pacific Peoples	Waka Kotahi NZTA	Land Information	Treasury	Inland Revenue
	Executive Board 5	Family/Sexual Violence IEB	Social Wellbeing	ACC	Tertiary Education	Internal Affairs	Civil Aviation Authority	Primary Industries	Defence	Statistics
			Children's Monitor	Health Research	Education NZ	Culture & Heritage	Maritime NZ	Climate Change IEB	GCSB	Customs
	Crown Agent 27		Social Workers Reg Board	Health Quality & Safety		Ethnic Communities	EQC	Spatial Planning IEB	NZSIS	Border IEB
				Pharmac		Whaikaha Min of Disabled People	Fire & Emergency	Environmental Protection Auth	Crown Law	Tourism NZ
				NZ Blood Service		Te Arawhiti Office of Māori Crown Rel	EECA	Outdoor Access		Callaghan Innovation
						Digital IEB	Kainga Ora Homes & Communities	AntarcticNZ		NZTE
						Sport & Recreation	Real Estate Authority	NEMA		Worksafe NZ
						Taumata Arowai Water Services Reg				
Wider Public Sector	Non Public Service Department 3	Police	Retirement Commissioner	Artificial Limb Service	School Boards ~2400	Creative NZ	Infrastructure Commission	Climate Change Comm	NZDF	Govt Super Funding Auth
	ACE 16	PCO	Children's Commission	Health & Disability	Tertiary Education Institutions 12	Te Papa Board	Transport Accident Invest	Ag Research	Electoral Commission	Guardians NZ Super
	ICE 20	Public Trust		Mental Health Commission		Heritage NZ	Electricity Authority	Enviro Science & Research		Accreditation Council
	Crown Entity Co 12	Human Rights Commission				Te Taura Whiri Māori Language	Auckland Light Rail	Landcare		NZ Lotteries
	Crown Entity Subsidiary 150	Police Conduct Authority				NZ Symphony Orchestra		GNS		Commerce Commission
		Law Commission				NZ Film Commission		NIWA		Financial Markets Auth
		Privacy Commissioner				Broadcasting Commission		Scion		External Reporting Board
		Criminal Cases Review Comm				Māori Broadcasting		Plant Food Research		NZ Productivity Commission
	PFA Sch 4/4A 28					Broadcasting Standards Auth	Airways Corp	Crown Irrigation Investment	Office of Clerk	Takeover Panels
	Non Public Service Department 2					Classification Office	Electricity Corp	Animal Control Products	Parliamentary Services	NZ Growth Partners
	Office Parl 3					Drug Free Sport	Kiwirail	Landcorp	Ombudsmen	Reserve Bank
	SOE 12					Radio NZ	NZ Rail	Meteorological Service	Auditor General	NZ Post
						TVNZ	Transpower	Assure Quality	Parliamentary Commn Enviro	QV
									Kordia Group	

Appendix Two: Overview of Government commitments with machinery implications and anticipated level of Public Service portfolio involvement



Level of involvement	Government commitments with machinery implications				
High	<ul style="list-style-type: none"> Establish Ministry of Regulation, new Regulations Standards Act Disestablish Productivity Commission 	<ul style="list-style-type: none"> Disestablish Māori Health Authority Create independent monitoring and oversight agency for Oranga Tamariki Reform Oranga Tamariki 			
Medium	<ul style="list-style-type: none"> Put a stop to restructures, mergers of agencies 	<ul style="list-style-type: none"> Disestablish Te Pūkenga 			
Low	<ul style="list-style-type: none"> Reform National Animal Welfare Advisory Committee 	<ul style="list-style-type: none"> Consider an occupations tribunal 	<ul style="list-style-type: none"> Establish National Infrastructure Agency Repeal 3 Waters Repeal RMA 2.0 Cancel Auckland Light Rail Establish Cyclone and flood recovery Ombudsman 	<ul style="list-style-type: none"> Transfer Firearms Safety Authority to another agency Transfer Arms Act responsibilities to Ministry of Justice 	
Priority Area	Rebuild the economy and improve productivity		Improve health, education and social services	Deliver better housing and infrastructure	Restore law and order

Key: 100-day plan