

Office of the Minister of State Services

Chair
Cabinet Business Committee

DISCLOSURE OF STATE SECTOR CHIEF EXECUTIVE REMUNERATION IN 2016 / 2017

Proposal

- 1 The purpose of this paper is to inform Cabinet that the State Services Commission (SSC) intends to release in December, the annual disclosure of the total remuneration received by State sector chief executives (CEs) in the 2016/2017 year, the Senior Pay Report. It also advises you of measures the State Services Commissioner (the Commissioner) is taking to reduce the rate of remuneration growth for State sector CEs.

Overview

- 2 The State sector senior executive remuneration disclosure regime has been in place since 1998 for Public Service departments, tertiary education institutions (TEIs) and District Health Boards (DHBs), with other Crown entities added in 2010.
- 3 The annual disclosure provides transparency for the taxpaying public around the levels of remuneration received by CEs.
- 4 The Commissioner has varying levels of influence on the terms and conditions, including remuneration for CEs in different parts of the State sector.
- 5 The annual disclosure attracts media attention. We have also seen a high level of public concern about CE remuneration. The concern is that the levels of pay for the highest paid CEs are excessive, and that there is a growing gap between wages and CE pay. These issues are often raised following the annual release of the Senior Pay Report.
- 6 Trust and confidence in the Public Service is important for maintaining the legitimacy of government in our democracy and critical to the Public Service effectively performing its role. The Commissioner has been concerned for some time that public opinion regarding senior pay rates is beginning to erode that trust and confidence, and is taking measures to reduce the rate of remuneration growth for State sector CEs.

Key facts from the 2016/17 Senior Pay Report

- 7 The average increase in remuneration for Public Service CEs was 2.0% (compared with 1.3% in 2015/16).
- 8 The average increase in remuneration for Crown entity CEs was 3.5% overall (compared with 3.4%), with average increases for DHB CEs of 2.3% (2.6%), TEI CEs 3.0% (2.9%), and other Crown entity CEs 4.1% (3.8%).

Setting chief executive remuneration

- 9 The Commissioner is the employer of the Public Service CEs and determines their remuneration, excluding those whose remuneration is set by the Remuneration Authority.

- 10 The Remuneration Authority was responsible for setting the remuneration of 13 CEs and Officers of Parliament (including the Commissioner and Deputy State Services Commissioner) included in the Senior Pay Report 2016/17.
- 11 The Commissioner did not set the remuneration for the Crown Law Office, the Government Communications Security Bureau (GCSB) and the New Zealand Security Intelligence Service (NZSIS). The remuneration for these positions was set by the Remuneration Authority for 2016/2017. However, from September 2017, the Commissioner is responsible for setting the remuneration of the CEs of GCSB and NZSIS.
- 12 The Boards/Councils of Crown entities, DHBs and TEIs are the employers and are responsible for setting the remuneration of the CEs for their agencies.
- 13 Legislation requires DHBs and TEI Boards/Councils to seek the Commissioner's agreement to their decisions.
- 14 For all other Crown entities, Boards consult the Commissioner. If a Crown entity proposes terms and conditions that are not consistent with the Commissioner's advice then they must consult with their responsible Minister, or parent Board in the case of Crown entity subsidiaries.
- 15 The Crown entity must have regard to recommendations of the Commissioner and the responsible Minister but they retain decision-making authority.

Chief executive remuneration

- 16 The State sector exists to serve Ministers and the government in the public interest. State sector CE remuneration must reflect the spirit of service and safeguard the reputation of the State sector whilst also attracting and retaining the leadership talent required for effective services to the state.
- 17 How leaders of the State sector are paid requires a careful balance of being fair to the CEs themselves by recognising the job they do, whilst also being fair to the taxpayers who pay the bill.
- 18 A significant implication of this balancing is that the elements of public service and intrinsic rewards will be reflected in remuneration. Internationally Public Service salaries are lower than private sector equivalents, particularly at senior executive levels. There are good reasons for this, and why it should also apply in New Zealand.
- 19 The Commissioner has been concerned about the trajectory of CE remuneration levels for some time. Since his appointment, he has signalled his intention to take a conservative approach to Public Service CE remuneration, particularly at the top levels.
- 20 He has also publically signalled his concern about remuneration for Crown entity CEs directly to Board chairs, and in response to Official Information Act requests and the media.
- 21 Publication of CEs' remuneration is one of the levers available to the Commissioner to moderate the levels of remuneration within the State sector. The Commissioner has a role to ensure that New Zealanders are well served by a legitimate State sector through openness and transparency with respect to the taxpayer.
- 22 The Commissioner has also been clarifying with Crown entity Boards that they are accountable for making the decisions about their CE's remuneration and should be prepared to defend their decisions to the Government and the public.
- 23 He has also publicly and directly advised Crown entity Boards that if they choose not to follow the advice of the Commissioner on decisions about remuneration for their CEs then that will be disclosed in the Senior Pay Report. This will reinforce the accountability of Crown entity Boards for their decisions.

- 24 The Commissioner wrote to all Crown entity Board chairs in July confirming that Boards are responsible to Ministers for the performance of their entity and for the employment of their CE. He noted the concern about the level and rate of increase of some CEs' remuneration, and confirmed that if Crown entity Boards chose not to follow SSC advice, this would be disclosed in the 2017 Report.
- 25 SSC is seeing some results of these actions. Some agencies whilst preferring to implement a remuneration increase for their CE outside of SSC advice, after discussion, accepted SSC's advice. However there are still a few agencies who are choosing not to follow SSC's advice.

Senior Pay Report

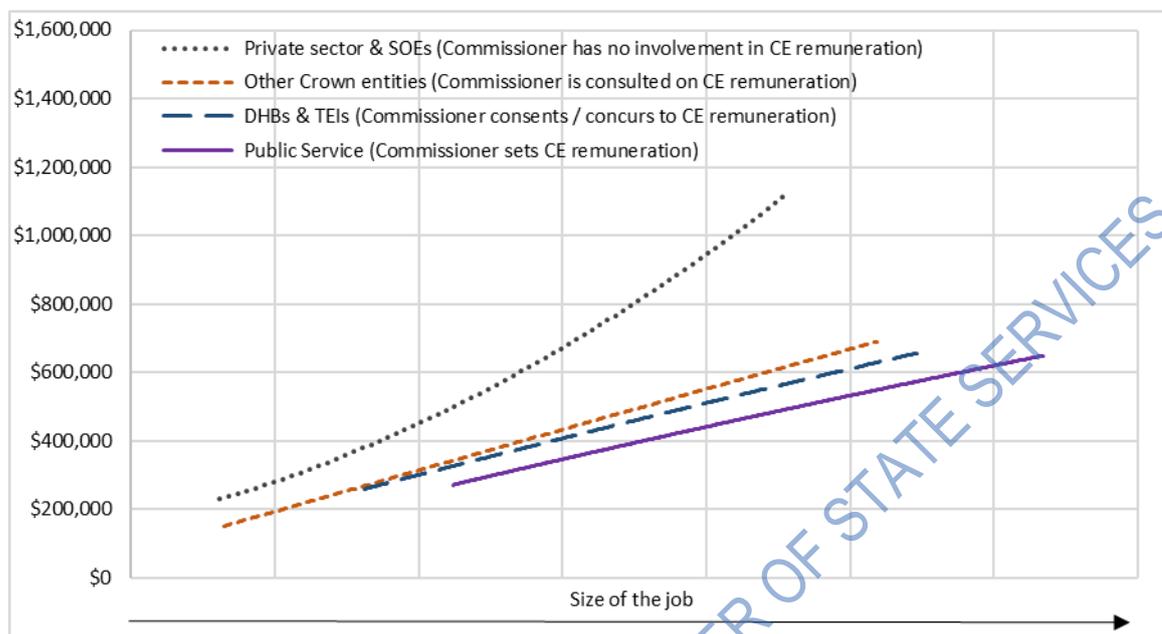
- 26 The Senior Pay Report discloses the total amount of remuneration, including any one-off or end of term payments, received by CEs in the Public Service and State sector for the financial year. It outlines some of the influences that impact remuneration disclosures year on year. It also provides some analysis of remuneration increases and comparisons with the previous financial year.
- 27 The remuneration received by CEs includes base salary and any benefits paid out that are specified in their employment agreements, and these include payments for performance. The reported remuneration figures usually include performance payments that relate to the previous year. If a CE's end of term is close to the end or beginning of a financial year, this can make the remuneration received by a CE very different to the annual entitlement. For these reasons, the Commissioner intends, in future years, to revise the approach to what is disclosed to make it easier to understand and therefore more transparent.
- 28 This year's Report shows that for the first time a State sector CE's remuneration has exceeded \$1million in a year. The Guardians of New Zealand Superannuation Fund (Guardians) CE also received the largest increase (\$140,000), once increases due to part-years and end of term payments are excluded.
- 29 The four highest levels of remuneration disclosed in the 2016/17 Senior Pay Report are:

Agency	Remuneration band
Guardians of New Zealand Superannuation Fund	\$1,090,000 - \$1,099,999
Accident Compensation Commission (ACC)	\$820,000 - \$829,999
Ministry for Business Innovation and Employment (MBIE)	\$800,000 - \$809,999
University of Auckland	\$710,000 - \$719,999

- 30 The remuneration received by the CE of MBIE was a one off occurrence and is not reflective of the underlying level of remuneration typically paid to the holders of this role. It included performance payments for the 2015/16 year and the 2016/17 year as well as end of term entitlements, as his last day of service was 30 June 2017.
- 31 The CEs of Guardians, ACC and the University of Auckland were also the three highest paid CEs in 2015/16.
- 32 The Boards of Guardians and ACC chose not to accept SSC advice about the level of remuneration for their CEs. As required by the Crown Entities Act, they consulted their Ministers who also declined to support their proposals. In both cases, the Boards implemented their proposals. This is recorded in the Senior Pay Report.
- 33 Another Crown entity, Telarc Limited, did not follow SSC advice on their CE's remuneration, but as it is a subsidiary of the Accreditation Council, they consulted their parent Board who supported their proposal. This too is recorded.
- 34 The varying levels of the Commissioner's influence over the remuneration of CEs in different sectors is shown in the Senior Pay Report. The lowest remuneration is for Public Service CEs whose pay is set by the Commissioner. The highest paid CEs in the

State sector are those of the Crown entities who only need to consult the Commissioner. This is illustrated in the following graph:

Total remuneration received by job size and sector for CEs in 2016/17



- 35 The Commissioner's influence is also reflected in the average increases. The average increase in remuneration for Public Service CEs was 2.0%, compared with average increases for DHB CEs of 2.3%, 3.0% for TEI CEs and 4.1% for other Crown entities.

Crown entity chief executive remuneration

- 36 Given there was considerable media and public reaction to last year's Report, there is likely to be media and public reaction to this year's disclosure about the level of remuneration paid to some CEs. Ministers are likely to be asked for comment when the 2017 report is published.
- 37 The Commissioner will be meeting with Board chairs in 2018 to reiterate the concern about the levels of, and rate of increase to, CE remuneration, and their accountability for defending, if necessary, their decisions. An invitation will be extended to the Minister of State Services to attend this meeting and speak directly to Board chairs.
- 38 Ministers are responsible for overseeing and managing the Crown interests in Crown entities. They ensure that an effective board is in place and they review the entity's performance and management of risk. Ministers appoint the Board and therefore can consider the tenure of Board members. The Commissioner is able to provide advice to Ministers about Boards who consistently choose not to follow SSC and / or Ministerial advice about the level of remuneration for their CEs at the time Board reappointments are being considered.
- 39 The Commissioner will work within current regulatory settings to keep remuneration increases within government expectations. However, if these measures do not have the desired effect of reducing the rate of remuneration growth for Crown entity CEs, then there are options for regulatory change that may ensure more certainty on restraint.
- 40 Regulatory changes could include amending the Crown Entities Act 2004 in one of two ways. It could be amended to require Crown entity Boards to obtain the Commissioner's agreement to the terms and conditions of their CEs or it could be amended to enable a direction to support a whole of government approach to be issued. However, legislative change does not offer immediate solutions.

41 Options that could be explored ahead of legislative change are around formalising expectations of moderation. The Government's Expectations for Pay and Employment Conditions in the State Sector could be reviewed, or the Commissioner could prepare a Government Workforce Policy Statement, a provision of the State Sector Act 1988. This is a statement of government's expectations about a workforce matter, approved by the Minister of State Services. However these expectations cannot determine pay or conditions and do not apply to all Crown entities.

Public Service chief executive remuneration

42 The Commissioner is revising the existing CE remuneration policy to reflect the spirit of service principle, which will be based on a wider range of considerations than we have previously applied to decisions.

43 In addition to principles related to recruitment and retention, fairness to employees, and affordability, we are adding the principle that CE remuneration outcomes must be consistent with Public Service values and with maintaining public trust and confidence. Furthermore, the duty to act responsibly in the public interest includes being a good trustee of public resources, which includes remuneration.

44 A wider range of considerations in the policy will mean that there will be occasions where the Commissioner will need to lean against increases in senior remuneration to ensure they are consistent with the new approach.

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

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47 Each of these changes represents a more conservative approach than allowed for under the previous policy.

48 The Commissioner will also be reviewing his approach to the structure of remuneration of CEs, including the appropriateness of providing performance pay in a context where employees demonstrate high levels of intrinsic motivation. International research shows that performance pay is not an effective incentive for higher performance for complex roles such as these in a public sector context.

49 The Commissioner will discuss his approach in more detail with the Minister of State Services.

Consultation

50 Prior to release of the disclosure tables Public Service CEs and Crown entity Board chairs will be provided with a copy of the tables and asked to brief their Ministers on any disclosures in their portfolios. Crown entity Board chairs have already been provided with a copy of the disclosure information relating to their CE's remuneration. SSC has

¹ The remuneration of Public Service chief executives is only reviewed once in a five year term.

asked the Remuneration Authority to advise those senior executives, whose remuneration comes under their jurisdiction, of the information being disclosed about those individuals.

Financial Implications

51 Expenditure on Public Service CE remuneration and employment costs in 2016/17 was within appropriations.

Human Rights

52 N/A

Legislative Implications

53 N/A

Regulatory Impact Analysis

54 N/A

Gender Implications

55 N/A

Disability Perspective

56 N/A

Publicity

57 The SSC is planning for the release of the Senior Pay Report, including the remuneration tables, in December 2017.

58 The release of these tables often attracts media attention. The SSC will take the lead on any media questions and interview requests.

59 Any issues that arise from individual disclosures will be referred to the Board chairs of Crown entities, the State Services Commissioner for the Public Service, or the Remuneration Authority for those CEs who come under the Authority's jurisdiction.

60 Crown entity Board chairs and CEs, and non-Public Service Department CEs (under the Remuneration Authority's jurisdiction), and the Public Service Association will be advised of the timing of the remuneration disclosure prior to release so that they are prepared to address media queries.

Recommendations

61 It is recommended that Cabinet:

- 1 **note** that in December 2017, the State Services Commission (SSC) intends to publish the Senior Pay Report, which includes the annual disclosure of the total remuneration paid to State sector CEs in 2016/2017;
- 2 **note** that the Commissioner will also be issuing a press release;
- 3 **note** the Commissioner's intention to proactively release this paper as part of the wider release of documents;
- 4 **note** that the Commissioner considers that public concern regarding senior pay rates is beginning to erode trust in the State service;

- 5 **note** that the Commissioner has been clarifying publicly, and directly, with Crown entity Boards that they are accountable for CE remuneration;
- 6 **note** that the Senior Pay Report, for the first time, includes disclosure of those Crown entities who chose to make decisions about their CE's remuneration which did not follow SSC advice;
- 7 **note** that SSC is seeing tempering of the level of increases in remuneration decisions taken by some other Crown entity Boards, as a result of the Commissioner's actions;
- 8 **agree** that the Commissioner will provide advice to Ministers about Boards who consistently choose not to follow SSC and / or Ministerial advice about the level of remuneration for their CE so that this information can inform Ministers' decisions about tenure of Board members;
- 9 **note** that if these measures do not have the desired effect of reducing the rate of remuneration growth for Crown entity CEs, there are regulatory settings that may provide more certainty;
- 10 **agree** that the Commissioner provide advice on regulatory options;
- 11 **note** the Commissioner is reviewing his approach to Public Service CE remuneration and will discuss this with the Minister of State Services.

Authorised for lodgement

Hon Chris Hipkins
Minister of State Services

PROACTIVELY RELEASED BY THE MINISTER OF STATE SERVICES