



26 May 2020



Dear 

**Official Information Request**  
**Our Ref: SSCOIA 2020-0039**

I refer to your official information request received on 29 April 2020 in relation to the comments made by the Minister of State Services Hon Chris Hipkins on 26 June 2019.

*“Minister of State Services Hon. Chris Hipkins - 26 June 2019 stated “We also heard in the consultation that some public servants feel a tension between their employment as public servants and their professional obligations when it comes to engaging in political expression in their private lives. The changes we’re making to the Act will reaffirm that public servants have the same civil and political rights as all New Zealanders to engage in democratic protest, be active in political parties and engage in civil and political debate, except of course if their work as public servants is connected with the subject of the protest.”*  
<https://www.scoop.co.nz/stories/PA1906/S00231/announcement-of-public-service-reforms.htm>

*In respect of this statement you have asked:*

- What support does the State Services Commission give to government departments and Crown agencies to ensure their staff have the right to freedom of expression and freedom of association in their personal capacity while working in the public service?*
- In what ways is the State Services Commission giving affect to this announcement that Government would make this policy?*
- What preparations has the State Services Commission made for giving affect to this announcement when it will be legislated?*
- Is the State Services Commission working with public servants who are engaged in community activities when giving affect to the announcement that the Government would make this policy?”*

**Background**

The comments of the Minister of State Services dated 26 June 2019 referred to above, were made in relation to the consultation with State servants on the Public Service Legislation Bill (the Bill). The Bill was publicly consulted on, including with public servants, during its developmental stages. You can read about the consultation undertaken on the new Bill [here](#).

The Bill will replace the State Sector Act 1988 with a new Public Service Act and make a small number of amendments to the Public Finance Act 1989. The Bill is currently before the Governance and Administration Select Committee.

The Bill acknowledges that public service employees have all the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 in accordance with the provisions of that Act. Further, that the New Zealand Bill of Rights Act and other enactments relating to the exercise or enforcement of those rights and freedoms, including the Human Rights Act 1993, apply to any action taken by a public service employee in exercising or enforcing those rights and freedoms.

### **No Policy Change**

It is important to note that the Bill does not change public servants' legal rights to freedom of political expression and association. These rights are enshrined in the Human Rights Act 1990 and the New Zealand Bill of Rights Act 1993. Rather, the Bill is intended to provide greater clarity for public servants to understand and exercise their rights.

The Bill does aim to create a unified public service bound by a common purpose, upholding foundational principles, and displaying common values. The affirmation of public servants' rights in the new Bill aims to reaffirm the existing law in relation to the rights of public servants, supported by strengthened mechanisms for establishing common behaviours.

The Bill, when passed, will ensure that, when guidance is issued by the State Services Commissioner on the principle of political neutrality, public servants must also be provided with guidance on the relationship between their obligations as public servants and their civil rights as New Zealanders and/or responsibilities as professionals.

### **Support**

The Commission is preparing for the potential enactment of the Bill. The Bill will be supported by new guidance, once the legislation has been passed into law.

The State Services Commission will shortly release new election guidance for public servants that addresses the relationship between public servants' work role obligations and their individual political and civil rights.

He Ārahitanga Pōtitanga Whānui | General Election Guidance 2020 starts with the premise that public servants have the same rights and freedoms of speech and of political activity in their private lives as other New Zealanders. The guidance identifies the common principles and obligations that apply to public servants in exercising their political rights over the election period.

In addition, the State Services Commissioner supports State servants' civil and political rights in various ways. The Standards of Integrity and Conduct ([the Code](#)) require State servants to act lawfully, fairly and respectfully and not to act in a way that could harm the integrity of the State services.

Positive and Safe Workplaces is a model Standard with a strong focus on respecting others individual rights while at work, which you can read about [here](#).

The State Services Commissioner also champions diversity and inclusion in the workplace, which you can read about [here](#).

If you wish to discuss this decision with us, please feel free to contact [Ministerial.Services@ssc.govt.nz](mailto:Ministerial.Services@ssc.govt.nz).

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

Please note that we intend to publish this letter (with your personal details removed) on the State Services Commission's website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Nicky Dirks', with a stylized, cursive script.

Nicky Dirks  
**Managing Principal – Ministerial Services**  
**State Services Commission**