

## Political neutrality

PSA Journal article

**Recent events have brought the concept of political neutrality into the public limelight. Chris Eichbaum, senior lecturer in public policy at Victoria University's School of Government, explores some of the issues that have been raised.**

Two episodes over the last few weeks have brought into sharp relief the related issues of the political neutrality of the public service on the one hand, and that of public servants to exercise their rights as citizens to contribute to public debate.

In one, the chief executive of a crown entity, (not a 'public service' organisation but part of the state sector) presented a submission to a select committee that was highly critical of a government bill.

The primary issue here is whether it is appropriate for a senior public servant to be publicly involved in commenting on an aspect of government policy, albeit not in an area he has direct responsibility for.

The fact that the submission was critical of government policy, while significant, is secondary. In the hypothetical world, a submission supportive of government policy would also have been at variance with the accepted conventions relating to public service neutrality.

In the other case to come under the media spotlight, a senior manager in the public service offered to resign, and this offer was accepted, after a minister raised with her employer concerns at her role in officiating at a political party meeting.

This raises a number of issues, in particular whether it is appropriate for a senior public servant to be actively involved as a member of a political party.

PSA national secretary Brenda Pilott pinpointed some of the issues when she told the media that: "No doubt there are many public servants who are members of a political party, as they are entitled to be, and we strongly support their right to be. Issues only arise when political activity and political neutrality collide.

"This arises mainly for senior public servants. Exercise of judgement is what being a senior public servant is all about. The responsibility of public servant obligations with the right to freedom of speech and to be involved in political activity is a balancing act that all public servants face."

She also noted that some Māori public servants, especially those in senior roles, may face additional dilemmas and have to exercise considerable judgement about their work duties if they have leadership roles within their iwi structures.

### **Origins of political neutrality**

The concept of political neutrality has its origins in the Public Service Act 1912 which put an end to political patronage. Before this, ministers were involved in making appointments.

With the passage of the 1912 legislation all employment decisions were "to be made independent of political interests, with appointments to the public service being based on merit, and tenure not dependent on a particular government or minister remaining in office."

The ability to work equally well with whatever government and minister came to power became a practical requirement of public servants, and a central part of the foundation for good government and governance.

Public servants are vested with the responsibility to serve the interests of the government of the day while at the same time maintaining a politically neutral position, thereby enabling the public service to serve not only the government of the day, but also a *future* government with a different ideology.

There are of course different approaches in other jurisdictions. In the United States, the incoming president makes, either directly or indirectly, approximately 3,000 'political' government appointments. And across the Tasman, there is a greater tolerance for more overt partisan sympathies within the Australian Public Service.

But in New Zealand, it is unlikely we will see any resiling from the principle of political neutrality. As the Prime Minister noted in her Paterson Oration in June this year, "the New Zealand public service has maintained its tradition of political neutrality and is regarded as free of any systemic corruption. These are priceless assets which my government – and I am sure all future governments – is determined to maintain."

### **Personal views**

Can public servants have their own political views? "Yes, of course," advises the State Services Commission's fact sheet *Political Views and Participation in Political Activity*. "Public servants have the same democratic rights, including the right of free speech, as all other New Zealand citizens."

However, it goes on to say, "public servants need to exercise judgment as to whether, when and how to express their political and personal views. . . public servants need to ensure that neither their words nor actions compromise the public service's ability to demonstrate impartiality in a party-political sense"

The advice is consistent with the guidance provided by the *Public Service Code of Conduct*. At present the code does not apply to crown entities, but this will change with the passage of the Public Finance (State Sector Management) Bill. (Note that the bill pre-dates recent events around political neutrality.)

The *Statement of Government Expectations of the State Sector* applies right across the state sector. The expectations include that the behaviour of individuals and agencies will be "non-partisan and free from bias; [and] avoid and manage conflict of interests".

Codes of conduct provide guidance, but in the end administrative discretion involves choices and judgment. As Colin Hicks, a former PSA president and now School of Government adjunct staff member, has noted, the risk with codes of conduct is that they are developed as a means of preventing unethical conduct rather than promoting ethical conduct.

The challenge for those tasked with providing leadership and guidance across the state sector on ethics, values and standards will be to adopt a proactive, integrity-based approach.

It may be a somewhat optimistic or even romantic assumption to make, but if indeed people join the public service out of a desire to contribute to the public good, a conversation about values and ethics needs to be premised on that positive point of departure.

That said, there will still be a place for guidance couched in terms of what *should not*, as well as what *ought* to be done.

If nothing else, recent events have raised the important issues of political neutrality and participation in political activity. A conversation has now started, and the PSA and its members need to be actively involved in that conversation.

### **Political neutrality**

**The SSC has published a series of fact sheets on political neutrality:**

1. **What is political neutrality and what does it mean in practice?**
2. **Political views and participating in political activities.**
3. **Relationship between the public service and ministers.**
4. **Relationship between the public service and MPs.**
5. **Political neutrality for front line staff.**