



Public Service Association  
Te Pūkenga Here Tikanga Mahi

# Briefing to the incoming Minister for the Public Service

December 2023

## Congratulations

Congratulations on your appointment as Minister for the Public Service. As the union for public servants, the PSA has always had a constructive working relationship with the Minister for the Public Service, and formerly of State Services. We look forward to working with you to make a real difference for New Zealanders.

Your role as Minister for the Public Service is a key one. Governments implement their policy agenda through public service agencies and the public's experience of public services forms their view of the performance of the government of the day. Public services are pivotal in the ongoing creation of a strong and resilient economy and communities. It is vital that public services, and the public sector, are fit for purpose and the Minister of the Public Services has the lead role in making sure this is the case.

**This briefing sets out how we'd like to work with you over this term of government, and what we consider to be the most important priorities for the Public Service portfolio.**

## Working well together

The PSA is a key stakeholder for the Public Service and the Government. We have engaged constructively with all previous administrations, met regularly with your predecessors and advanced issues of shared interest. We are the voice and legal representative of our members at all levels of the Public Service. Through our democratic structure we are in touch at all times with the "temperature" and issues in Public Service workplaces and have a well informed and independent view of this.

The PSA's membership spans the public and community sectors, and this positions us to have a broad and comprehensive view of public services. Of the over 92, 000 people who are members of the PSA: 38% work for public service departments; 27% work for Te Whatu Ora; 10% work for organisations funded by the Public Service; 12% work for local authorities; and 13% work for other public sector agencies. We have included a leaflet with further information about the PSA, its purpose, strategic goals, governance and membership.

## Key people

The PSA is led by its president Benedict Fergusson, the convenors of Te Rūnanga o Ngā Toa Āwhina Virgil Iraia and Lesley Dixon, the PSA Executive Board which includes elected member representatives from each of our sectors, and the PSA national secretaries; Duane Leo and Kerry Davies. Janice Panoho is PSA Kaihoutu. You can contact the PSA national secretaries through their executive assistant Liz Byron (liz.byron@psa.org.nz).

## Opportunities and challenges in the Public Service portfolio

While we will have areas of difference with your government on issues, we also have a number of areas where we can work together. We see the main opportunities in this portfolio as including:

### Strong and effective public services need more, not less, public service capability

The size of the public service workforce has remained substantially constant over time in relation to the population, including since 2017.. However, because of demographic shifts (including aging), increases in adverse weather and other disruptive events, and the increasingly complex and pressured economic, technological and geopolitical environment, both the population and the country now has higher and more complex needs. This has resulted in increased and more complex demand for public services. To respond adequately to this, the Public Service needs more investment in both capability and capacity – not less.

We do not support job cuts. We met with you earlier this year to discuss campaign statements about cutting 14, 000 jobs in the Public Services and capping the workforces of public service agencies at the level of 2017. As we said at that time, each of those 14, 000 people is working to deliver value to New Zealanders. New Zealanders, and the New Zealand economy relies on strong and effective public services. Putting these people out of work will have long lasting impacts not only on their families and communities around the country, it will significantly impact on public service agencies' ability to deliver and on the staff left behind.

For nearly 40 years now the size of the public service workforce has been played in elections as a political football. Governments have a legitimate interest in the public service workforce, however this politicisation has not assisted with but rather hampered effectiveness.

All governments have an obligation to steward public services so that they can continue to deliver what New Zealanders need. We urge you to take the time to receive free and frank advice about public service capacity and capability.

We understand the current fiscal environment. All decisions about re-prioritisation of spending require assessment of trade-offs and it is important for trust in government that full information about advice received about this is disclosed. It is our expectation that Ministers will be open and transparent with the public about what advice they get about the impacts of their decisions about job and programme cuts on services, work and workloads; including by proactively releasing full details of this advice when decisions are taken.

**We do not support the use of a workforce cap and it is our strong recommendation that a measure of this kind is not imposed**

The 2008 – 2017 public service workforce cap was a rigid and inflexible lever that created unhelpful barriers to effectiveness and efficiency. There was no evaluation of the effect of the cap that provided evidence it improved either effectiveness or efficiency. We note that reporting on the cap eventually fell away and that the number of public servants increased over the time of its existence – tacit acknowledgement that more people were needed.

Our assessment of the 2008 – 2017 cap is that it had unhelpful and we must assume unintended consequences, including:

- the doubling of the spend on contractors and consultants over the cap period and increased use of labour hire companies (with poor conditions and job quality) to make up capacity and capability gaps;
- agencies moving to describe jobs by work area rather than detailed job descriptions, in an attempt to avoid categorisation and more flexibly manage resource within the arbitrary and ridged constraint of the cap, at the expense of development of expertise and proper career development;
- the fuelling of unhelpful competition between agencies for scarce talent and resulting job churn; and
- the use of unfilled vacancies to manage budget pressures within fixed baselines, which put unconscionable pressure on the staff that remained and compromised service quality.

It also resulted in the average age of the workforce increasing and it becoming less representative of the country as a whole as with people not being replaced, younger people could not be taken on. It also forced the removal of important pathways into hard to fill roles, which exacerbated capability gaps.

All of this has had enduring and negative effects on the ability of the public service to have the right people with the right skills at the right place and time. And it made us less resilient and less prepared to respond to disasters and other adverse events. In our view it also made agencies less likely to take on service transformation as this requires tolerance of risk and investment in staff.

### **Supporting the Crown in its relationships with Māori under Te Tiriti o Waitangi**

PSA members are committed to, through their work as public servants, supporting the Crown in its relationships with Māori under Te Tiriti o Waitangi. This remains constant and is an important part of the Public Service's constitutional role in Aotearoa.

We oppose any agency reducing their focus on meeting the needs of and obligations of the Crown to Māori, or to reduce their use of Te Reo Māori in their work. We object to this as being inconsistent with Te Tiriti o Waitangi and consider it will undermine effective delivery of public services.

We strongly support the use of Te Reo Māori in the workplace. Where public servants speak Te Reo and uphold tikanga and this benefits their agency, and this important cultural expertise is not

compensated for in their base salary, it is important that this additional benefit to their employer is not only valued and respected but compensated.

We have negotiated allowances to compensate workers for this over many decades and many National administrations. We do not agree with the characterisation of these allowances as “bonuses”. They are no different from allowances negotiated for performance of other additional or higher duties. We oppose the removal of allowances that recognise expertise in Te Reo Māori and tikanga Māori.

Government has a legitimate role in setting expectations for public service chief executives for collective bargaining. S97 of the Public Service Act enables you to set Government Workforce Policy that includes such expectations. However, this does not extend to determining terms and conditions of employment. This would be inappropriate as terms and conditions must be able to be bargained in good faith by workers and employers. For Ministers to attempt to set terms and conditions through Government Workforce Policy or Cabinet direction would be contrary to the both the statutory obligation of good faith as provided under sections 4 and 32 of the Employment Relations Act 2000 and contrary to the general Code of Good Faith and the Code of good faith for the public health sector as issued pursuant to section 35 of the Employment Relations Act 2000.

### Support for Public Service agencies as exemplar employers

To deliver 21<sup>st</sup> century public services, employment arrangements must nurture the commitment of state servants to the wider cause of public service, facilitate whole-of-government practices and high-trust, effective, productive and innovative workplaces. This is no small ask. The PSA seeks employment arrangements that support exemplary workplaces and underpin exceptional service delivery.

We need workplaces where there is trust in the relationship between employees and managers and where everyone is supported to perform well, contribute and be productive. Workplace cultures and systems shouldn't get in the way of being able to do a good job and change things for the better. There is a strong link between workplaces that are effective and productive and good management where workers are trusted and have a strong voice. And for all of this to happen we need workplaces where everyone has fair working conditions and a secure future and where their skills and career and safety, health and well-being are looked after.

Within agencies we seek agreed documented frameworks as the basis for the working relationship between the employer and union. This includes putting exemplar engagement arrangements in place that make workers' participation in decisions and processes, both directly and through their union, part of business as usual. We know this works and improves both organisational effectiveness and workers' experience of work.

We recommend including in your Government Workforce Policy Statement for employment relations for the Public Service a clear direction to chief executives to strengthen and deepen their constructive engagement with the PSA and embed exemplar employment relations approaches in their operating models.

## Continuing to resource and support equal pay and pay equity

In 2017, under the English administration, we agreed the Gender Pay Principles which form the backbone of the current Kia Toipoto Pay Gaps Action Plan. Kia Toipoto aims to remove gender and ethnic bias from all stages of the employment cycle and close ethnic and gender pay gaps. Government can be justly proud of this programme of work which is highly regarded both within New Zealand and internationally and has been highly effective. It is our expectation that this programme of work will continue to be resourced and supported.

## Evidence-based approaches to pay and performance that support the spirit of service

As the legal representative for public servants in employment matters, we negotiate for rates of pay that are fair to both public servants and the taxpayer. We have deep experience of the different approaches to pay and design of pay systems employed by the Public Service over the last century. The evidence base, from both our experience and from the research literature, is clear. For pay to support the effectiveness of public service agencies through supporting organisational performance and attracting and retaining people with the skills needed, the most important thing is that it is regarded by public service workers as fair in relation to other comparable jobs both within and across agencies. There is no robust evidence that the use of at risk performance components increases performance in the knowledge and service based roles most common in public services. There is evidence that these components can undermine motivation and the kind of high integrity behaviours essential for public service work, and also that the result in biased and discriminatory pay outcomes that increase gender and ethnic pay gaps. We do not support the use of performance pay for these reasons.

## Supporting the implementation of the Public Service Act 2020

We engaged deeply with the development of the Public Service Act and largely welcomed its passing. The Act is world leading in defining the democratic role of the Public Service and including supporting governments to pursue the long-term public interest and facilitate active citizenship. We look forward to continuing to engage with Te Kawa Mataaho and agencies as they implement the Act and will be working with members to ensure that the public service values and principles are upheld and the spirit of service is nurtured and grown. PSA members have been clear: they want to make a difference and they support working within the parameters set by the Act to do this. In particular we will be looking to see that:

- Māori Crown relationships are strengthened and agencies and public servants are well supported in this.
- Agencies are actively supported and encouraged to realise the purpose of active citizenship. This must include deepening the involvement of both workers delivering services; and service users, and their whanau and communities in the development of policy and design of services.
- People working in public services are able to exercise their civil and political rights with confidence.
- Unions and workers are actively engaged to participate in moves to more joined up and regional approaches to services. The PSA is well-placed to facilitate this, with members

working across all parts of the Public Service and also local government and the funded sector.

- The provisions of the Act that enable greater mobility of people around the Public Service are operated in a way that builds capability (including context and subject matter expertise) and careers.
- The good employer and diversity and inclusion obligations in the Act are realised.

## Deepening your commitment to open government

We note that during the election campaign, all parties in the incoming government affirmed their commitment to Open Government. While we support Aotearoa's membership of the Open Government Partnership, there is some way to go before actual open government is achieved. We recommend continuing to resource and support New Zealand's participation in the OGP and actively taking steps to deepen the engagement of civil society with the Open Government process.

## Low carbon public services

Public services have a key role in a just transition to a low carbon future for Aotearoa through policy, regulation and services. Agencies within the Public Service are well-placed to show leadership through how they themselves move to low carbon approaches. PSA members want the organisations where they work to move with pace to achieve this.

We recommend that agencies are actively supported and incentivised to make this transition using all of the levers available to them, including procurement, accommodation, service design and workplace practices. The public service has made progress on reducing its carbon footprint and sustainability performance since the introduction of the Carbon Neutral Government Programme. It is essential that this work continues and that it has the backing of ministers, especially as agencies look to make cost savings in line with Government expectations.

## The future of work in public and community services and a just transition

Geopolitical changes and climate and technology change are creating challenges and shaping the future of work in public and community services. It is important that agencies work with us to plan for the future and ensure the continuous capability and capacity improvement needed to meet those challenges.

In term of technology, we are optimistic this can make a positive contribution. However, we are concerned about the current state of the rules that govern the use of new and evolving technologies and data. We welcomed the release in July 2023 of interim guidance for public agencies on the use of AI but this doesn't consider impacts on workers, working conditions or jobs.

New tech in public service workplaces, like machine learning or generative AI, should be used to empower people and enhance their work. This sits uncomfortably alongside privacy and surveillance concerns. We all need to be able to understand the tools that we're using at work – including any impacts on us for example through the use of any information gathered about us (personal information) or our work. Information should only be used for disclosed purposes.

People working in public services will need information to be assured that any tools they're using are unbiased and not having unintended consequences like compounding inequalities. And if there are impacts on the design of work or jobs then those impacted need to have a say in the redesign of their work and it is our expectation that public service agencies will actively engage us in any change process so that those people can organise their input and to ensure the process is fair, their expertise is utilised and there's a just transition to whatever the new state is.