

11 April 2017

To Chairs of State sector agencies



Board members standing for Parliament

As is usual practice in an election year, the Government has considered its expectations of Board members who may be standing for Parliament in 2017. Continuing the practice of previous governments, Ministers have reaffirmed their expectation that board members of State sector agencies will avoid conflicts of interest that may arise should a board member declare his or her intention to stand for Parliament.

Ministers have asked that these expectations be communicated to you, and that this opportunity be taken to remind you of issues relating to State sector employees standing for election to Parliament.

Ministers' expectations of board members

Ministers' expectations are based on the principle that trust and confidence in the State sector must be maintained, while ensuring that individuals' rights to participate in the democratic process are respected. Ministers' expectations are as follows:

- Ministers expect board members to avoid potential, perceived or actual conflicts of interest, including conflicts that may arise from their candidacy for election to Parliament.
- In general, Ministers expect board members who have declared their intention to stand as candidates to stand down from their board positions with effect from Nomination Day, or such earlier date as may be determined.
- For clarity, 'stand down' means that the board member does not exercise the duties of office for the specified period of time, and receives no remuneration for that period.
- In general, most board members are expected to resign their positions upon being elected to Parliament. The Crown Entities Act 2004 addresses explicitly the situation for certain board members:
 - Board members of Crown entity companies are disqualified from being Members of Parliament (section 89, Crown Entities Act);
 - Appointed board members of statutory Crown entities (Crown agents, autonomous Crown entities, and independent Crown entities) immediately cease to hold office upon becoming Members of Parliament (section 45, Crown Entities Act).
 - Elected members of statutory Crown entities may retain their board positions while concurrently serving as Members of Parliament (section 30(3), Crown Entities Act).

Recognising the very large number, range, and disparate functions of the boards to which these expectations are being conveyed, some situations will need to be considered on a case by case basis. If an individual board member considers these expectations do not apply because his or her candidacy would have no adverse effect on trust and confidence in the State sector, he or she should discuss the situation with you and/or the monitoring department. In the event that you, as chair, wish to stand, you should discuss the matter with the board, monitoring department and your Minister.

Conflict of interest post-election

If a board member stands down from his or her position, but is unsuccessful in being elected to Parliament, he or she is not prevented, post-election, from resuming duties relating to the position. However, conflicts of interest could continue post-election (e.g. if the board member remains high up a party list and thereby could become an MP if a vacancy occurs, or if the board member's activities during the election campaign were such that his or her continued presence on the board constitutes a real or perceived conflict of interest). Board members and their chairs should be prepared to deal with such situations on a case by case basis.

Employees standing for Parliament

The State Services Commissioner has recently updated and re-issued the usual election year guidance: *Guidance for State Servants for the 2017 Election Period: State Servants, Political Parties and Elections* (see: www.ssc.govt.nz/parliamentary-elections).

Although this is an employment matter and, therefore, ordinarily the responsibility of your entity's Chief Executive, I would like to draw your attention to section 2.3 "State Servants Standing for Parliament", which discusses certain requirements under the Electoral Act 1993 that are placed on some State servants if they are standing for Parliament. These requirements apply to employees of Public Service departments, the Education Service (including Tertiary Education Institutes and School Boards of Trustees), the New Zealand Police, the NZSIS, and most members of the Defence Force.

Agencies not covered by the Electoral Act requirements are invited to consider whether it may be appropriate to follow the same processes if any of their employees are standing for Parliament, in order to preserve the political neutrality of the State sector.

Further Election Year Guidance for State Servants

Your board and staff members may also find it useful to refer to the full guidance document referred to above which sets out some common principles and obligations that apply to those working across the State sector. Please consider recommending that your senior management download it to your organisation's intranet or circulating it via other communication channels.

Subsidiary companies

Ministers' expectations also apply to subsidiary companies. If your agency is the parent entity to any subsidiary companies, please alert them, as appropriate, to the contents of this letter and reinforce Ministers' expectations with those agencies.

Further clarification

If you have any questions about this guidance, please consult the office of your responsible Minister or monitoring department, as appropriate. You are also welcome to contact staff in the State Services Commissioner's Election team at election@ssc.govt.nz or ph. (04) 495 6600.

Yours sincerely



Debbie Power
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