

Chair
Cabinet State Sector Reform and Expenditure Control Committee

BETTER PUBLIC SERVICES PAPER 2: BETTER SYSTEM LEADERSHIP

Proposal

1. This is paper two in a suite of seven Cabinet papers setting out the policy and legislative changes needed to implement recommendations in the report of the Better Public Services (BPS) Advisory Group. This paper proposes the changes needed to implement the leadership recommendations of the report that were subsequently agreed by Cabinet; that is, those relating to better system leadership, sectoral leadership roles, and the functional leadership role [CAB Min(12)1/1 refers]. To this end, to ensure that organisational arrangements within the Public Service are fit for purpose and aligned with Government priorities, this paper proposes some additional responsibilities for the State Services Commissioner, including some additional statutory roles and powers.

Executive summary

2. This paper outlines the concept of leadership set out in the Better Public Services Advisory Group report. It outlines the leadership responsibilities of the three central agencies as described in the report, and explores the implications for the role of the State Services Commissioner of the system leadership, sectoral leadership, and functional leadership roles proposed in the report. It also explores the implications of the leadership development and deployment challenges noted in the report. Specifically this paper proposes that the State Services Commissioner:

- be responsible for appointing to new Public Service leadership roles, such as sector, Departmental Agency and result leaders, in addition to the Commissioner's statutory role in appointing Public Service chief executives;
- be responsible for functional leadership defined as leadership on a cross-agency or cross-system basis, of an aspect of business activity and aimed at securing economies or efficiencies across departments, improving services or service delivery, developing expertise and capability across departments, and ensuring business continuity;
- be able to delegate responsibility for functional leadership by appointing functional leaders;

- make recommendations to Cabinet on the powers of functional leaders where it is proposed that these involve a transfer of decision rights from individual departmental chief executives;
 - have a formal leadership role in relation to senior leadership development and deployment of leaders to areas of critical need in the Public Service, with sufficient powers to ensure that all departments participate in the development of the senior leadership group for the Public Service as a whole; and
 - determine key leadership positions in departments that must be filled by agreement between the relevant departmental chief executive and the State Services Commissioner.
3. This paper proposes changes to Part 4 of the State Sector Act 1988, which support the proposals in this paper for leadership development and deployment of leaders in the Public Service.

Background

4. In the Better Public Services report, leadership is described as the “single most critical driver of successful change” in the State services and is seen as a key enabler for measures to achieve priority results and build better services. However, current statutory and other settings are not optimal to support the development of the kind of leadership needed to meet the challenges of the future. Government and public expectations of the State services have grown, and the challenge of the future is to address, within a smaller resource base, more difficult issues which either require major innovative shifts in how single agencies operate, or which cannot be addressed on a single-agency basis. Consequently, to a greater extent than at present, chief executives will have to work across government, as well as leading their own agencies. A shift in the public management model will be required: from decision-rights usually at agency level, to instances where decision-rights sit at sector or system level.

5. The leadership capability development required can be summed up as a shift to:

- a strategic leadership approach focused on performance over the medium to long term; and
- an integrative leadership approach focused on harnessing and directing people, resources and processes across different agencies to achieve specific results.

6. Consequently the Better Public Services report anticipates that new types of leadership roles in the future will be widely distributed across the State services. These stronger leadership roles are:

- Sector leadership - through leadership of work programmes that span agencies, for example to support key Government results; and
- Functional leadership - through leadership of particular aspects of the business on a sector or system-wide basis.

7. The Advisory Group also noted that the responsibility for leadership of the State services overall is loosely “and somewhat jointly” held by the three central agencies, and the report views this as a key system leadership issue. The report notes that the three central agencies should work together much more closely in “identifying where system-oriented leadership is needed, in initiating, expediting and sometimes imposing a system-wide response and in ensuring rewards and sanctions reinforce system-oriented behaviours.” To enable this close working relationship, the Advisory Group recommended the appointment of a single Head of State Services.

8. In January 2012 Cabinet decided on some initial actions to implement the direction set out in the Better Public Services report and also directed that further work be done on a range of policy issues [CAB Min (12)1/1 refers]. In the leadership area, Cabinet:

- a. **agreed** that there needs to be a Head of State Services with responsibility for overall performance of the State services and powers to appoint sector leaders, functional leaders, and deploy senior leaders across the State sector;
- b. **agreed** to the State Services Commissioner leading a programme of work that will report to the State Sector Reform Ministerial Group, by 30 April 2012, on legislative powers needed for the State Services Commissioner to formally take on the functions of the Head of State Services and to give full effect to sector leader and functional leader roles, in particular how these would encompass Crown entities; and
- c. **agreed** to the State Services Commissioner acting as the Head of State Services to the extent possible within existing legislation until changes to the State Services Act become operational.

Comment

9. This section covers:

- the system leadership responsibilities of the three central agencies;
- the role of the State Services Commissioner in relation to new leadership arrangements such as results, sector and functional leadership; and
- the role of the State Services Commissioner in relation to development and deployment of leaders in the Public Service.

System leadership and the three central agencies

10. The Better Public Services Advisory Group report calls on the three central agencies to work much more collaboratively together as a de facto ‘corporate head office’ of the State services. Putting this in place is a matter for the three central agency chief executives and does not require policy decisions by Cabinet. Achieving the ‘corporate head office’ approach will require a mix of activities which the central agencies would undertake in concert, and others which are a development of the existing role of individual central agencies. For example, the results area is one with

which all central agencies are involved and where they will need to work closely together to support results leaders.

11. More generally, central agencies will have distinct but mutually reinforcing roles:

- DPMC as chief advisor to the Prime Minister and in working with Ministers on defining results;
- SSC on ensuring that the organisational arrangements are in place to give effect to key Government directions. This will include a focus on results, talent management and development, performance improvement and ongoing system design; and
- Treasury as more of a chief financial officer for Government, helping to make tradeoffs, understanding business models of government to help with prioritisation and determining which levers can be used to make change.

12. The State Services Commissioner already holds the major responsibility for ensuring that organisational arrangements in the Public Service are robust to support Government objectives and that departmental chief executives are held to account for their roles in relation to key Government objectives. To support the direction set out in the Better Public Services report and to give effect to the concept of the Head of State Services, the State Services Commissioner must also be able to:

- ensure good governance and leadership arrangements in sectors, appoint functional leaders in the Public Service, and hold chief executives to account for the cross-agency work needed to achieve the priority results of Government; and
- ensure that leaders are developed and flexibly deployed according to need.

13. The following sections address in more detail the need for these changes and the statutory changes required to give effect to them. *BPS Paper 6: Amendments to the State Sector Act 1988* proposes further changes to the Act that reinforce the role of the State Services Commissioner in providing leadership and oversight, and promoting excellence across the State services.

New leadership arrangements

14. The Better Public Services report identifies the need for a broader range of leadership roles across the system (e.g. leaders of results, sectors, or functions). Various forms of leadership arrangements, such as sector groups, have existed in the Public Service for several years. Generally these are of an informal nature and departments are able to choose whether or not to participate. These types of arrangements will continue. The emphasis of the Better Public Services report is on identifying ways to strengthen these arrangements where needed, i.e. make participation by departments mandatory and give results, functional or sector leaders formal authority to take charge of work programmes that span agencies.

15. Public Service leaders should be appointed to these new leadership arrangements by the State Services Commissioner, to preserve the principle that appointment to positions in the Public Service should remain at arms-length from Ministers. The Commissioner would be responsible for putting in place formal systems

for expectation setting and performance management of chief executives in these roles to reflect their broader responsibilities.

16. The role of the State Services Commissioner and the mechanics of appointing Specific Purpose Board members and chief executives of Departmental Agencies are detailed in *BPS Paper 4: Specific Purpose Boards* and *BPS Paper 3: Departmental Agencies* respectively. Further detail on the appointment of functional leaders is set out below.

17. There is a question as to how agencies outside the core Public Service, but within the State services, should relate to these new leadership arrangements. *BPS Paper 7: Amendments to the Crown Entities Act 2004* recommends changes to the Act that would facilitate the involvement of Crown entities in sectors. Non-Public Service departments could be directed by way of Cabinet resolution on the advice of the State Services Commissioner.

Functional leadership

18. Functional leadership may be defined as leadership, on a cross-agency or cross-system basis, of an aspect of business activity. It is aimed at securing economies or efficiencies across departments, improving services or service delivery, developing expertise and capability across departments, and ensuring business continuity. This paper proposes:

- a broader range of options for functional leadership so that, in future, departments may be directed to comply with standards or processes which a functional leader has put in place;
- a role for the State Services Commissioner in appointing and mandating functional leaders in the Public Service; and
- the role of Cabinet in deciding on any proposal to require departments to operate within the standards or other requirements established by a functional leader.

19. There are already examples of functional leadership in the New Zealand Public Service. The Government Chief Information Officer (GCIO), established to lead and champion the use of ICT on a cross-system basis is one example. Another example is the leadership role that the Ministry of Economic Development (MED) has taken in the area of procurement, where MED has led the implementation of all-of-government contracts for commonly purchased items, the establishment of professional accreditation and training, and standard terms and conditions for basic contracts.

20. A very broad range of initiatives can fall within the general rubric of functional leadership. It could include a 'head of profession' leading the development of a profession or occupational group within the Public Service such as legal or finance professionals. It could include leadership of further initiatives to secure economies of scale through consolidated or shared back office services across the Public Service. Or it could involve leading the development of common systems and standards for key business functions like human resources or project management on a multi-agency basis.

21. To date functional leadership has operated on the basis of relatively 'soft' mandates. These are mandates which do not change the existing distribution of decision rights in the system. For example, the procurement reforms led by MED were conducted on an 'opt in' basis which preserved the ability of any department to decide not to participate. Initiatives of the GCIO have been framed on a somewhat different basis where departments can 'opt out' with the agreement of their Minister. However, neither of these have the effect of changing decision rights, that is, neither make it compulsory for departments to adhere to standards or other requirements put in place by the functional leader.

22. There are a variety of ways in which functional leaders can be given stronger mandates. For example, Cabinet can set rules which give functional leaders an ability to act as a source of expert second opinion advice to Cabinet on the strategic plans and investment intentions of departments.

23. The Better Public Services report contains proposals for the strongest form of functional leadership mandates – to the extent of having functional leaders taking control of part of agency budgets. These proposals would shift decision rights so that functional leaders would have the power to compel departments to comply with strategies, standards or other requirements which they put in place. This could include functional leaders:

- requiring departments to consolidate certain services on a cross-departmental basis;
- setting mandatory standards which prescribe how an activity is to be carried out; and/or
- requiring departments to get prior approval before spending on activities within the functional leader's remit.

24. We consider that it may be appropriate, in certain cases, for departments to be required to operate within the standards or processes established by a functional leader. This may be needed where there are major potential gains to be made from a cross-agency approach but these gains are unlikely to be made, or are unlikely to be made in a timely manner, if individual departments can choose not to participate. The Better Public Services report cites the example of the procurement reforms which required complex and protracted processes to secure buy-in from agencies.

25. However, it is also clear that such arrangements will need to be used sparingly. Our system is based on placing decision rights and leadership at agency level because, for most issues, agency chief executives, and their Ministers, have the best information and greatest incentives for good decision making. Removal of decision rights from the agency level may put this at risk and will therefore be the exception rather than the rule.

26. Officials have considered how this expanded range of options for functional leadership should be put into effect. The State Services Commissioner should exercise a general responsibility for functional leadership and should be able to delegate this responsibility by appointing functional leaders within the Public Service. The State Services Commissioner should have a role in defining the scope of activity and mandate of individual functional leaders. Where these mandates do not have the

effect of altering decision rights in the system, the State Services Commissioner should act on his own authority. This would include situations where the functional leader is to act as a source of good practice guidance and advice, and non-binding standards as in the case of a head of profession.

27. However, where it is proposed to go further, and impose mandatory obligations on departments, there will need to be formal Cabinet approval. This will cover cases such as where it is proposed to give the functional leader a formal role in second opinion advice on departmental proposals. It will also cover situations where it is proposed that departments be compelled to work within standards, processes, or other requirements that have been put in place by the functional leader.

28. The trade-off between mandatory obligations set by a functional leader and chief executives' freedom to manage could add complexity to the system, therefore:

- there is a need to balance the potential for new roles and ways of doing things against the need for a clear and simple system that can get things done; and
- functional leader roles would need to be applied selectively and only where there is potential for significant gains.

29. There is a question as to how functional leadership relates to agencies outside the core Public Service, but within the State services. It has been concluded that it should be Ministers, rather than the State Services Commissioner, who would hold the right to require non-Public Service departments and Crown entities to work within the systems or processes established by functional leaders¹. *BPS Paper 7: Amendments to the Crown Entities Act 2004* addresses the grounds on which the Ministers of Finance and State Services can issue whole of government directions to classes of Crown entity and also recommends that whole of government directions can be applied to clusters of at least five parent Crown entities that have two significant attributes in common. The State Services Commissioner will provide advice on the particular instances in which it is desirable to bring non-Public Service departments and Crown entities within the ambit of functional leadership.

Leadership development and flexible deployment of leaders

30. In its report, the Better Public Services Advisory Group says that:

- there is some good leadership capability and capacity in the State services, but a much better level is needed; and
- the State services are light on many of the skills its leaders need to meet the challenges of the future.

31. As well as this concern with leadership development, the Advisory Group was concerned about the deployment of leaders to areas of critical need. Accordingly, the Advisory Group recommendation was that the State Services Commissioner be empowered to deploy chief executives, and 2nd and 3rd tier leaders to areas of greatest need "across the system".

¹ Non-Public Service departments could be directed by way of Cabinet resolution.

32. There is no doubt that the Advisory Group's concerns reflect real problems. Currently it is not unheard of for talented leaders to be flexibly redeployed, with their and their chief executive's agreement, to another department where their skills are urgently needed. The problem is not that it cannot happen, but that it does not happen very often. And Performance Improvement Framework (PIF) reviews have confirmed that the State services are not as good as they should be at working across internal and external silos, or progressing the medium to long term work programmes that will position the State Services to meet the future needs of governments and taxpayers. Better leadership development will be important in addressing this issue.

33. Measures to facilitate flexible deployment are key to resolving both the issues around leadership development and the issues in deploying leaders to areas of critical need. The State services need to be led by people who think of themselves as leaders in the State services, not just their particular agency of origin, and who are highly skilled in collaboration across agency boundaries. Research shows that 70% of development comes from on-the-job experiences, tasks, and problem solving. Therefore, developing the leaders of the future depends on being able to offer flexible professional development pathways to people who want experience across a wide range of roles, and agencies, for example through successive placements in different senior roles. And the same measures that put in place flexible deployment for leadership development can also be used to flexibly deploy leaders to where they are needed most.

34. The proposals below aim to facilitate flexible deployment by establishing in statute the State Services Commissioner's leadership role in relation to:

- identifying and developing members of the leadership talent 'pool' across the Public Service;
- working with chief executives to fill senior positions in departments; and
- transferring existing departmental chief executives between departments.

Identifying and developing members of the leadership talent 'pool' across the Public Service

35. There have been several, unsuccessful, attempts to put in place a system of leadership development through rotation of key leaders across departments in line with individualised professional development plans. A further initiative is being put in place now, and the prospects and signs are good, but there is an ongoing risk of failure as participation of departments is essentially voluntary. Legislative change is needed to put these initiatives on a stronger basis.

36. In this respect, key current provisions in Part 4 of the State Sector Act are not fit for purpose:

- s46 establishes that the Commissioner and departmental chief executives have a shared responsibility for the development of senior leadership and management capability in the Public Service, but does not clearly identify the State Services Commissioner's leadership role in this area;

- s47(1) establishes the State Services Commissioner’s responsibility for developing and ‘promoting’ a strategy for the development of senior leaders and managers in the Public Service, but does not say what this strategy is to achieve. The same subsection provides for the Commissioner to issue guidance to chief executives, but this does not amount to an obligation on chief executives to work within the strategy;
- section 48(1) says that each chief executive is responsible for “developing senior leadership and management capability in his or her Department”. This is a very narrow statement of responsibility when what is needed is a broader expectation that chief executives will actively support and participate in the development of the senior leadership group across the Public Service; and
- subsections 47(1)(c) and 47(2-3) and 48(2) contain detailed provisions relating to the establishment and operation of an executive leadership programme. These are too detailed to be placed in statute and have not proved workable in practice.

37. We propose to delete sections 46, 47, and 48 and replace them with provisions which will establish the State Services Commissioner’s leadership role in relation to the development of a senior leadership and management group in the Public Service. It will also define the State Services Commissioner’s responsibility for developing and implementing a strategy for the development of senior leaders in the Public Service by means including, but not limited to, the flexible deployment of individuals to developmental roles in departments, subject to their agreement and following consultation with the appropriate chief executives. It is envisaged that the State Services Commissioner will also, at an appropriate point, invite participation in these initiatives by departments and agencies of the wider State services.

Appointments to senior positions

38. Nothing in the above proposals alters the essentially voluntary nature of each chief executive’s participation in the system of senior leadership development across the Public Service. We need to ensure that the State Services Commissioner is able to secure the participation of all departments, on an ongoing basis, in systems that facilitate the identification and development of leadership talent in the Public Service. We also need to ensure that the State Services Commissioner is able to deploy senior leaders appropriately to areas of critical need in the Public Service.

39. Officials have considered two options for ensuring the above aim. Both options rely on a statutory power of the State Services Commissioner to designate senior positions, or classes of senior position in the Public Service as key positions. The two options differ in how key positions would be filled.

40. One option is that key positions would be filled only by agreement between the relevant chief executive and the Commissioner. This would provide the Commissioner with an ability to influence the filling of senior positions with the aim of ensuring that:

- appropriate consideration is given to system-wide leadership development in the filling of positions; and
- positions in areas of critical risk are identified and the widest range of suitable candidates for appointment are considered.

41. The second option is for the State Services Commissioner to have the power to unilaterally decide on appointments to designated positions. This would probably require the State Services Commissioner to become the direct employer of individuals appointed to designated positions. This option is not recommended as it risks undermining the partnership between the State Services Commissioner and chief executives that is needed for the overall system to operate well.

42. Accordingly we propose to insert into Part 4 of the State Sector Act, new provisions that will:

- provide for the State Services Commissioner to decide, in respect of any management position, or group of category of management positions, however defined, in the Public Service, that the position or positions constitute key positions by virtue of their developmental potential for senior leaders or their critical nature in terms of the operations of a department or departments. Once designated the chief executive shall not appoint to a the position except with the agreement of the State Services Commissioner
- provide for an appropriate appointment process in respect of designated positions.

Transferring chief executives

43. In addition to the above, we propose a change to provide more flexibility in the making of chief executive appointments where it is a matter of transferring an existing departmental chief executive into a vacancy in the Public Service. Currently there are two ways of appointing to a chief executive position: through filling a vacancy, and through reappointing an incumbent into the same position. We propose that the Commissioner have the flexibility to transfer an existing chief executive into a vacant position as if it were a reappointment. A transfer of a chief executive from one department to another would occur where the Commissioner reasonably believes that it is in the best interests of the Public Service to do so; such as where there is an immediate need to fill a critical vacant position or where different skills are needed in certain positions at different times. It would provide the flexibility to quickly adapt to the needs of the system at any given time and would foster a development path for chief executives. Transfer could only occur following prior discussion with the appropriate Minister(s) and could then follow a process similar to that applying to reappointments – from s35(6) of the Act onwards. A transfer would be subject to the agreement of the chief executive concerned.

Consultation

44. This paper has been prepared by the State Services Commission and Treasury. Proposed next steps for consultation are addressed in the accompanying *BPS Paper 1: Overview of legislative proposals*.

Financial, Human Rights, Regulatory Impact Analysis and legislative implications

45. Financial and human rights implications, regulatory impact analysis, and legislative implications are addressed in the accompanying paper *BPS Paper 1: Overview of legislative proposals*.

Publicity

46. Publicity for the Better Public Services suite of papers is addressed in the accompanying paper *BPS Paper 1: Overview of legislative proposals*.

Recommendations

47. We recommend that the Cabinet Committee on State Sector Reform and Expenditure Control:

- 1 **note** this is the second of seven papers provided in response to Cabinet's invitation in January 2012 to the Deputy Prime Minister and the Minister of State Services to submit further papers to Cabinet by 30 April on substantive policies or decisions arising from the Better Public Services work programme, including legislative amendments needed to give full effect to these policies [CAB Min (12) 1/1 refers]
- 2 **note** that the State Services Commissioner has the major responsibility for ensuring that organisational and performance management arrangements are in place to implement the directions recommended by the Better Public Services Advisory Group
- 3 **agree** that, in addition to the Commissioner's statutory role in appointing Public Service chief executives, the State Services Commissioner be responsible for appointing to new Public Service leadership roles, such as sector leaders and result leaders
- 4 **agree** that the State Services Commissioner will advise Cabinet on how these leadership roles should extend to non-Public Service departments
- 5 **note** that recommendations for appointing members to Specific Purpose Boards and appointing chief executives of Departmental Agencies are set out in *BPS Paper 4: Specific Purpose Boards* and *BPS Paper 3: Departmental Agencies* respectively
- 6 **note** that changes to the Crown Entities Act 2004, recommended in BPS Paper 7, will facilitate the involvement of Crown entities in sectors
- 7 **agree** that the State Services Commissioner be responsible for functional leadership and that functional leadership be defined as leadership aimed at securing economies or efficiencies across departments, improving services or service delivery, developing expertise and capability across the Public Service, and ensuring business continuity

- 8 **agree** that the State Services Commissioner may delegate this responsibility by appointing functional leaders within the Public Service
- 9 **agree** that any proposals that would give functional leaders powers to impose mandatory requirements on departments must be specifically agreed by Cabinet, and that this must be used sparingly
- 10 **note** that *BPS Paper 7: Amendments to the Crown Entities Act 2004* addresses the grounds on which the Ministers of Finance and State Services can issue whole of government directions to categories of Crown entity and also recommends that whole of government directions can be applied to clusters of at least five parent Crown entities that have two significant objective attributes in common
- 11 **note** that it will be a responsibility of the State Services Commissioner to provide advice on the specific areas where it is desirable to bring non-Public Service departments and Crown entities within the ambit of functional leadership
- 12 **agree** that Part 4 of the State Sector Act 1988 be amended to establish the State Services Commissioner's leadership role in relation to the development of a senior leadership and management group in the Public Service, and to define the State Services Commissioner's responsibility for developing and implementing a strategy for the development of senior leaders in the Public Service
- 13 **agree** that Part 4 of the State Sector Act 1988 will include a provision enabling the State Services Commissioner to designate certain positions in departments as key positions which must be filled by agreement between the relevant departmental chief executive and the State Services Commissioner, and that the Act include an appropriate appointment process for such positions
- 14 **agree** that the State Sector Act 1988 be amended to permit the Commissioner to transfer an existing chief executive into a vacant chief executive position in any Public Service department, with the concurrence of the chief executive, and following consultation with the appropriate Minister(s), if the Commissioner reasonably believes it is in the public interest to do so

Hon Bill English
Deputy Prime Minister

Hon Dr Jonathan Coleman
Minister of State Services

Date: ____/____/_____

Date: ____/____/_____