



Cabinet Committee on State Sector Reform and Expenditure Control

SEC Min (14) 5/2

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Minute of Decision

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Amended Directions to Extend Functional Leadership to Crown Entities, Following Consultation

Portfolios: Finance / State Services

On 15 April 2014, the Cabinet Committee on State Sector Reform and Expenditure Control (SEC):

- 1 **noted** that in December 2013, Cabinet:
 - 1.1 **noted** that benefits would be achieved from extending Procurement, ICT and Property functional leadership requirements to specified Crown entities;
 - 1.2 **directed** the Head of State Services to put in place a process for coordinated consultation on proposed directions under section 107 of the Crown Entities Act 2004;
 - 1.3 **invited** the Minister of State Services and the Minister of Finance (the Ministers) to report back to SEC by 31 March 2014 on the outcome of consultation on the three directions;

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Consultation

- 2 **noted** that 102 entities covered by one or more of the directions were invited to participate in the consultation process;
- 3 **noted** that key themes from 37 written submissions and verbal feedback involving around 80 entities in total were:
 - 3.1 **widespread** support for the intent of the directions;
 - 3.2 **concerns** about the impact of the directions on board decision rights and authority, with a few entities raising questions about the overall legal framework for the directions;
 - 3.3 **the need** for greater clarity on the requirements in the directions, on their application, and on how the implications of the requirements may change over time;

- 3.4 the need for clear dispute resolution and escalation processes;
 - 3.5 concerns about additional costs compared to benefits;
 - 3.6 the need for adequate timeframes for introduction (especially for Procurement), and for implementation support;
 - 3.7 some questioning of coverage (many entities are already complying on a voluntary basis, and some would prefer that this continue);
- 4 **noted** that as a result of the feedback, officials have:
- 4.1 sought advice, including from Crown Law, on the legal issues raised;
 - 4.2 amended the wording of the directions to provide greater clarity on some aspects of the requirements;
 - 4.3 clarified the processes set out in the directions;
 - 4.4 clarified the processes for disputes resolution and escalation relating to the directions;
 - 4.5 recommended extending the timeframe for introducing the Procurement direction;

Risk

- 5 Withheld under section 9(2)(g)(i) of the Official Information Act 1982

Financial implications

- 6 **noted** there is reasonable evidence that a decision to extend functional leadership requirements to Crown entities will be fiscally positive overall, but will impose some transitional and other operational costs, particularly on some smaller entities;

Legislative implications

- 7 **noted** that, while not urgent, officials will consider how future legislative change opportunities could be used to further improve the operation of directions issued under section 107 of the Crown Entities Act 2004;

Text of the directions

- 8 **endorsed** the:
 - 8.1 text for the section 107 direction to extend the Government Rules of Sourcing (as provided in the body of the paper under SEC (14) 14);
 - 8.2 text for the section 107 direction to extend the ICT functional leadership requirements (as provided in the body of the paper under SEC (14) 14);
 - 8.3 text for the section 107 direction to extend Property functional leadership requirements (as provided in the body of the paper under SEC (14) 14);

Next steps

- 9 **noted** the intention of the Ministers to:
- 9.1 issue the directions to extend functional leadership as set out in paragraphs 8 to 10 above;
 - 9.2 notify the affected parties;
 - 9.3 present the directions and explanatory material to the House of Representatives (the House) on or about Tuesday 22 April 2014;
- 10 **invited** the Ministers to direct the Head of State Services to notify affected parties on their behalf that they are issuing the directions, which are being presented to the House;
- 11 **noted** that the material in Appendix 2 in the submission under SEC (14) 14 will be provided as explanatory material to accompany the directions when they are presented to the House and referred to a select committee;
- 12 **noted** that the Ministers intend to publish the directions in the *Gazette*, and to release the paper under SEC (14) 14 and explanatory material on the State Services Commission's website, as soon as possible after the directions have been referred back to the House (unless they are disapplied);
- 13 **directed** the Functional Leaders for Procurement, ICT and Property to report on whether the directions are achieving the intended objectives, and on any lessons learned, as part of regular reporting to responsible Ministers and Cabinet.

Reference: SEC (14) 14

Present:

Hon Bill English (Chair)
 Hon Judith Collins
 Hon Tony Ryall
 Hon Dr Jonathan Coleman
 Hon Anne Tolley
 Hon Amy Adams
 Hon Craig Foss
 Hon Peter Dunne

Officials present from:

Office of the Prime Minister
 Department of the Prime Minister and Cabinet
 State Services Commission
 Ministry of Business, Innovation and Employment
 Ministry of Social Development
 Officials Committee for SEC

