

Under the Inquiries Act 2013
In the matter of the Royal Commission into Historical Abuse in State Care and in
the Care of Faith-based Institutions

Te Kawa Mataaho Public Service Commission: Brief of Evidence of Peter Stanley Hughes for Institutional Response Hearing

24 August 2022

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Brief of evidence of Peter Stanley Hughes

I, **Peter Stanley Hughes** of Wellington, Public Service Commissioner state:

1. Introduction

- 1.1 I am the Public Service Commissioner, Te Tumu Whakarae mō Te Kawa Mataaho, which includes the role of Chief Executive Te Kawa Mataaho Public Service Commission. I was appointed to this role (then called State Services Commissioner) in 2016. My term was subsequently extended for a further three years, ending in July 2024. In my evidence, when I refer to actions taken as the Public Service Commissioner, this also covers my role as State Services Commissioner unless the context requires otherwise.
- 1.2 I am also the Head of Service, in this role I provide leadership of the Public Service, (and to some extent the wider public sector) including of its agencies and workforce and oversight of the performance and integrity of the system.
- 1.3 I have worked in the New Zealand Public Service across various roles for over 38 years. I started out my career as a front-line case manager with the Department of Social Welfare, as it then was, in 1981. Before being appointed Public Service Commissioner I served as Secretary for Education (2013-2016); Secretary for Social Development (2001-2011); Secretary for Internal Affairs (2000-2001); Chief Executive of the former Health Funding Authority (1999-2001); and Deputy Director-General of Health (1998-1999).
- 1.4 I strongly believe in the ideal of public service and I have devoted the whole of my working life to it. I have made it a focus of my tenure as Public Service Commissioner to emphasise core public service values, in particular a commitment to service, ethics, and integrity.

2. Scope of evidence

- 2.1 The Royal Commission has indicated that it wishes to hear from me in relation to:
 - (a) the key lessons for the Public Service arising out of the work of the Royal Commission, for example as to standards of conduct and system or structural lessons; and
 - (b) the principles and standards that should underpin the Public Service's ongoing response to the work of the Royal Commission.
- 2.2 My evidence at this hearing will be focused on my role as Public Service Commissioner, providing information about:
 - (a) the role of the Public Service and Ministers;
 - (b) the role and functions of the Public Service Commissioner;
 - (c) my role in Chief Executive appointment and performance management;

- (d) my role in the design and operation of the system of government agencies;
- (e) the overarching changes made to the Public Service in the recent Public Service Reforms;
- (f) how the Public Service is supporting the Crown in its relationships with Māori;
- (g) how I promote integrity, accountability and transparency in the Public Service;
- (h) my role in developing the Public Service workforce; and
- (i) how agencies are working together as a unified Public Service.

2.3 I note that work on the Crown response is being progressed by an interagency group set up to respond to the Royal Commission. It includes the Ministries of Health, Education, Justice, and Social Development, Oranga Tamariki, Crown Law, Te Puni Kōkiri, the New Zealand Police, the Department of Corrections, the Public Service Commission and Archives New Zealand. The interagency group is coordinated by a Crown Response Unit, under the governance of a Sponsoring Group made up of Chief Executive of Oranga Tamariki, Ministry of Education, Ministry of Health, Ministry of Social Development, Whaikaha – Ministry of Disabled People, and the Crown Law Office. The lead Chief Executive is the Secretary of Education, Iona Holsted.

2.4 Following the release of the Royal Commission’s final report, Cabinet will consider the Commission’s recommendations and make decisions on each recommendation, as well as how the Crown response will be implemented. Ministers may agree to nominate a lead agency with knowledge and services relevant the Royal Commission’s area of inquiry to coordinate the response.

3. Introductory comments and acknowledgements

3.1 I want to start by acknowledging the personal stories of pain and suffering, and of courage in the face of adversity, that we have heard from survivors through the course of this Royal Commission of Inquiry. In hearing those stories, I echo and completely support the Crown’s acknowledgements, and those of individual agencies over the last two weeks.

3.2 I would like to make specific acknowledgement of shortcomings of the Public Service in three areas that have had direct impact on the survivors that the Commission has heard from.

3.3 Firstly, the arrangements put in place in the reforms of the late 1980s, imported into the Public Service private sector models and a corporate philosophy. The focus was placed on accountability at the individual Chief Executive level and the system lost cohesion. The Public Service has not always worked together in the way that it should, and has not been joined up, as it should be, around children, young people and their families and communities.

3.4 Secondly, it is critical that the Public Service reflects and understands the communities it serves. A diverse workforce has the experience and expertise to

contribute to the design and delivery of policies, services and other initiatives meant to improve the lives of all New Zealanders. The Public Service workforce has not reflected the makeup of society. And it has not fostered workplaces that are inclusive of all groups. If you are looking for an antidote to bias and prejudice in organisations and institutions, it is a diverse and inclusive workforce.

- 3.5 Thirdly, one of the Public Service's most important roles is to support the Crown in its relationships with Māori under te Tiriti o Waitangi | the Treaty of Waitangi. The Public Service has not always had the focus that we should have had on developing and maintaining capability to engage with Māori and to understand Māori perspectives.
- 3.6 It is clear there have been significant shortcomings in how the Public Service has operated in the past. We need to do better. I discuss in this brief some of the work that we are doing to improve the way the Public Service as a whole operates, so that it can better meet the needs of New Zealanders, especially our most vulnerable.

4. The role of the Public Service and Ministers

- 4.1 When examining the role of the Crown in state care, and in particular, how the Crown can ensure abuse in care is prevented in the future, I think it may be helpful to summarise the role of the different players that form the Crown.
- 4.2 New Zealand's executive government is headed by the Ministers of the Crown. Ministers are accountable to the House of Representatives for the performance and operations of the Public Service agencies in their portfolios. Ministers set government policy, including making decisions about policies governing the care of children, young people and vulnerable adults.
- 4.3 The Public Service is responsible for implementing government policy. Each Public Service agency has a Chief Executive¹, appointed by the Public Service Commissioner. The role of Chief Executives is governed by the Public Service Act 2020 and the Public Finance Act 1989. Under this legislation, each Chief Executive is responsible to their Minister or Ministers for the performance and operation of their agency, for implementing the policy and programmes of the Government of the day, and for their agency's responsiveness on matters relating to the collective interests of government.
- 4.4 Recent legislative changes in the Public Service Act also make Chief Executives responsible to Ministers for improving ways of working across Public Service agencies (discussed further below), and for supporting their Minister to act as a good steward of the public interest.

5. Role and functions of the Public Service Commissioner

- 5.1 My role, as set out in the Public Service Act, is to act as the Head of Service by providing leadership of the Public Service, including of its agencies and workforce and by oversight of the performance and integrity of the system.

¹ Or in some cases a board of chief executives, where this agency is an interdepartmental executive board.

- 5.2 Te Kawa Mataaho does not have a direct function or role in the state care system. I note that systems for oversight are different in different parts of the Public Service according to what is appropriate. Some agencies have highly intrusive, coercive powers of the state. Where this exists, specific statutory arrangements are put in place by Parliament to monitor this. In the example of children in care, the Ombudsman, Children's Commissioner and the Independent Children's Monitor all play a role. These entities are all responsible to Ministers, and to Parliament, for providing information and identifying potential issues. The role of the Public Service Commissioner is not to monitor, but to hold Chief Executives of Departments and Departmental Agencies to account for resolving any issues identified.
- 5.3 The Act states that my functions are to:²
- (a) establish and lead a Public Service leadership team so that Public Service agencies work as a system to deliver better services to, and achieve better outcomes for, the public; and
 - (b) promote integrity, accountability, and transparency throughout agencies in the State services, including by setting standards and issuing guidance; and
 - (c) work with Public Service leaders to develop a highly capable workforce that reflects the diversity of the society it serves and to ensure fair and equitable employment, including by promoting the good employer requirements in this Act; and
 - (d) act as the employer of Public Service chief executives, including by—
 - (i) appointing chief executives and reviewing their performance, including how they carry out their responsibilities and functions under this Act or another enactment; and
 - (ii) to the extent relevant in each case, reviewing the performance of the Public Service agency that the chief executive leads or carries out some functions within; and
 - (e) review the design and operation of the system of government agencies in order to advise the Minister or the appropriate Minister on the following matters:
 - (i) possible improvements to delivery of services and inter-agency cohesion:
 - (ii) agency establishments, disestablishments, and amalgamations:
 - (iii) the governance and allocation of functions, and the transfer of functions to and between agencies; and
 - (f) carry out any other administrative and management functions in relation to the Public Service that the Prime Minister from time to time

² Section 44, Public Service Act 2020.

directs (not being functions conferred by this Act or another enactment on a chief executive appointed by the Commissioner).

- 5.4 I note for the sake of completeness that Te Kawa Mataaho is also responsible for administering the Public Service Act 2020, the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Crown Entities Act 2004. The first two of these are relevant in this context and I discuss further on in this briefing.
- 5.5 The reach of my mandate within the Public Service and the broader public sector depends on the particular function. For example, I can issue standards and guidance relating to integrity and conduct to a broad range of government agencies, including Public Service agencies, Crown agents and most other Crown entities, as well as companies named in Schedule 4A of the Public Finance Act.
- 5.6 By comparison, my function in relation to performance management varies considerably depending on the placement of the agency within the wider System. I am responsible for appointing department and departmental agency Chief Executives and reviewing their performance. In relation to the children's system this includes the Secretaries for Children, for Education, and for Social Development, the Director-General of Health and the Chief Executive of the new Independent Children's Monitor once it is established as a Departmental Agency.
- 5.7 The Board or Commissioners of a Crown Entity are appointed by Cabinet and are responsible to their Minister, while any staff they appoint are employed by the Board/Commissioner(s). This includes the current Children's Commissioner or proposed new Children's Commission.

6. Chief Executive appointment and performance management

- 6.1 In practical terms, much of this role I achieve through appointing and working with Public Service Chief Executives, setting expectations for how they operate, and managing their performance. To be clear, this role does not mean I direct them how to do their job. By this I mean that Ministers of the Crown set expectations for Chief Executives for the operation and performance of their departments, and Chief Executives are responsible to those Ministers for meeting those expectations.
- 6.2 My role involves:
- (a) appointing appropriate candidates to the role of Chief Executive, who will model the Public Service principles³ and values⁴, and act with a Spirit of Service to the community;
 - (b) setting expectations for how I expect Chief Executives to run their departments, manage their staff and provide stewardship across the Public Service. For example, I expect that Chief Executives are:
 - (i) acting with integrity, modelling the Public Service principles and values in their agencies;

³ Section 12 of the Public Service Act 2020.

⁴ Section 16 of the Public Service Act 2020.

- (ii) building a workforce that reflects the diversity of New Zealand, acts with a spirit of service to the community, and models the Public Service values;
 - (iii) working collaboratively and putting aside agency siloes, including by joining up as boards to focus on Government priorities;
 - (iv) supporting and promoting flexibility and interoperability between departments, including by leading on functional areas (e.g. health and safety; diversity and inclusion) and building capability across certain professions (e.g. policy, finance);
- (c) reviewing Chief Executive performance against Ministers expectations and the requirements in the Public Service Act 2020. I do this by:
- (i) undertaking yearly performance reviews for each Chief Executive, through which I also seek the views of Ministers on how well Chief Executives perform against their expectations;
 - (ii) taking a real-time hands-on direct management approach. To support this approach I have five Assistant Commissioners at Te Kawa Mataaho who work directly with individual Chief Executives to support them to succeed, identify issues, and manage agency performance.

7. Advising Ministers on machinery of government issues

- 7.1 My function in reviewing ‘the design and operation of the system of government agencies’ means that Te Kawa Mataaho advises Ministers on the machinery of government and how it can be improved. Ministers then make decisions on the tools and mechanisms it wishes to deploy to deliver on its priorities.
- 7.2 In practice, the Public Service agency with the relevant responsibility provides overall policy advice to Ministers on a given part of the system, any issues to be resolved and the objectives and outcomes that Ministers wish to achieve. In the case of the overall care system, the lead advisor is the Ministry of Social Development.
- 7.3 Te Kawa Mataaho will often work alongside these lead officials to provide them with technical advice on how the structures of government can be arranged in order to support the desired outcomes. We have also developed and published a range of guidance to help officials to consider and advise on machinery of government matters. This includes consideration of whether the new tools and organisational forms provided for in the Public Service Act may be beneficial.
- 7.4 Te Kawa Mataaho will also provide advice to the Minister for the Public Service to support them in their role as part of Cabinet discussions. This may include how machinery of government options have been considered, how structures can effectively achieve Ministerial objectives, while also ensuring cohesion and effectiveness of the whole Public Service system.
- 7.5 The Commission has supported the Ministry of Social Development in their lead policy role advising on options to implement their objectives for the oversight of

the Oranga Tamariki system. We have also provided some specific advice to Ministers, all of which has been proactively released on the Public Service Commission website.⁵

8. Public Service Reforms

8.1 During my time as Public Service Commissioner I have worked with Public Service Chief Executives to reform the operating model of the Public Service, overcoming the siloes between agencies, putting New Zealanders at the centre of service design and delivery, and ensuring a focus on service, ethics and integrity. A major enabler of this work was the passing of the Public Service Act 2020.

8.2 The Public Service Act affirms and clarifies the foundational principles and values for all public servants, regardless of their agency:

(a) **Principles:**⁶

- (i) Politically neutral: to act in a politically neutral manner; and
- (ii) Free and frank advice: when giving advice to Ministers, to do so in a free and frank manner; and
- (iii) Merit-based appointments: to make merit-based appointments (unless an exception applies under this Act); and
- (iv) Open government: to foster a culture of open government; and
- (v) Stewardship: to proactively promote stewardship of the Public Service, including of—
 - (A) its long-term capability and its people; and
 - (B) its institutional knowledge and information; and
 - (C) its systems and processes; and
 - (D) its assets; and
 - (E) the legislation administered by agencies.

(b) **Values:**⁷

- (i) Impartial: to treat all people fairly, without personal favour or bias:
- (ii) Accountable: to take responsibility and answer for its work, actions, and decisions:
- (iii) Trustworthy: to act with integrity and be open and transparent:

⁵ <https://www.publicservice.govt.nz/resources/proactive-releases/>

⁶ Section 12(1).

⁷ Section 16(1). The Public Service values are given effect through the minimum standards set under section 17(1).

- (iv) Respectful: to treat all people with dignity and compassion and act with humility:
- (v) Responsive: to understand and meet people’s needs and aspirations.

8.3 It also highlights acting with a spirit of service to the community as the fundamental characteristic of the Public Service and requires Public Service Chief Executives to nurture the spirit of service that their staff bring to their work.⁸

8.4 The Public Service Act is the first piece of legislation to recognise the role of the Public Service in supporting the Crown in its relationships with Māori under Te Tiriti o Waitangi | the Treaty of Waitangi. I will discuss this provision, and Māori-Crown leadership and capability in the Public Service in more detail below.

8.5 Chief Executives must also be guided by the principle that the group comprising all Public Service employees should reflect the makeup of society, and have employment policies and practices that foster a workplace that is inclusive of all groups.⁹

8.6 Lastly, we now have the tools we need to join up agencies, rather than developing work programmes and service within agency siloes. This includes:

- (a) the formalisation of the Public Service Leadership Team – a group of all department Chief Executives, tasked with providing strategic leadership, working co-operatively, modelling leadership behaviours and helping each other to fulfil their responsibilities as chief executives;¹⁰
- (b) the ability to set up formal Chief Executive boards to join up either policy and strategy, or delivery, with accountability to a Minister; and¹¹
- (c) the ability for the Commissioner to appoint System Leaders who lead and co-ordinate best practice in a particular subject matter across the whole or part of the State services.¹²

9. Enhanced Māori-Crown Relationships – the Treaty of Waitangi | te Tiriti o Waitangi

9.1 The Public Service Act states explicitly that the role of the Public Service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi | te Tiriti o Waitangi.¹³ The Public Service is not a Treaty partner in its own right, but supports the Crown as a whole in this role.

9.2 To this end, there are explicit responsibilities on me as Public Service Commissioner and Public Service Chief Executives¹⁴ to develop and maintain the

⁸ Section 13.

⁹ Section 75.

¹⁰ Sections 59 and 60.

¹¹ Sections 25, 26, 32 and 33.

¹² Section 56.

¹³ Section 14.

¹⁴ These responsibilities also apply to the other Public Service agencies: interdepartmental executive boards and boards of interdepartmental ventures.

capability of the Public Service to engage with Māori and to understand Māori perspectives.¹⁵

- 9.3 There are also explicit responsibilities in the employment area,¹⁶ including that Public Service Chief Executives are responsible for operating an employment policy that meets the aims, aspirations and employment requirements of Māori as well as the need for greater involvement of Māori in the Public Service.
- 9.4 Te Kawa Mataaho has been working alongside Te Arawhiti (the Office for Māori Relations) and Te Puni Kōkiri (Ministry of Māori Development) to strengthen:
- (a) Māori-Crown system leadership; and
 - (b) Māori-Crown capability across the Public Service.

Māori-Crown system leadership

- 9.5 The establishment of Te Arawhiti in 2018 was itself a critical support in strengthening system leadership in this area. Te Kawa Mataaho and Te Puni Kōkiri have supported Te Arawhiti to develop the Whāinga Amorangi: Transforming Leadership framework, which guides the Public Service in taking a coordinated approach to strengthening Māori-Crown relations. All Public Service agencies now have a Whāinga Amorangi plan, endorsed by Te Arawhiti, and are required to report progress in their annual reports to Parliament.
- 9.6 To support the new requirements in the Public Service Act, and ensure the Public Service Commission is well set up to support the Crown in its relationships with Māori, I:
- (a) appointed Te Hāpai Ō, a Māori Advisory Committee in December 2020 to assist me with implementing the Public Service Act, in particular, the provisions regarding the Crown's obligations to and relations with Māori;
 - (b) supported the appointment of a second statutory Deputy Public Service Commissioner in October 2021, with a particular focus on the Māori-Crown interface;
 - (c) appointed a Kaihautū mō Te Kawa Mataaho in December 2020 to support my role and the work of Te Kawa Mataaho by advising on how te ao Māori is and can be incorporated into our work, leading and guiding us to partner effectively and appropriately with Māori, and advising on common standards for tikanga and kawa across the Public Service;
 - (d) implemented Te Kawa Mataaho's own Māori Strategy Te Angitū to ensure staff in our organisation can confidently understand, value and participate in te ao Māori in a way that enables us to support the Māori-Crown relationship.

¹⁵ Section 14.

¹⁶ Section 14(2)(b).

- 9.7 I have also refreshed the expectations and development plans of Public Service Chief Executives to ensure these reflect their Māori-Crown responsibilities under the Public Service Act.

Māori-Crown capability

- 9.8 Te Kawa Mataaho has also made progress in building Māori-Crown capability across the Public Service through initiatives such as:
- (a) development for Public Service leaders, for example, Whakaaro Rangatira pilot programme for senior leaders (Māori leadership practices working at the Māori-Crown interface) and new Māori-Crown relationship modules for common core development of Public Service leaders;
 - (b) encouraging all agencies to fulfil their responsibilities under Maihi Karauna (the Crown’s Strategy for Māori Language Revitalisation 2019–2023) in partnership with Te Taura Whiri i te Reo Māori, Māori Language Commission;
 - (c) increasing the use and visibility of te reo Māori across the Public Service, working with Te Taura Whiri i Te Reo Māori, including in the refresh of jobs.govt.nz to include te reo Māori for all headings, job titles, job descriptions, chief executive designations and agency names;
 - (d) highlighting excellence by including a specific category for Māori-Crown relationships in the annual Te Hāpai Hāpori | Spirit of Service Awards.
- 9.9 Te Kawa Mataaho used the first ever Public Service Census to start collecting data about Māori-Crown capability. These initial findings have been positive, with 65% of respondents saying they were encouraged and supported to engage with Māori to ensure Māori views and perspectives are considered.

10. Public Service Integrity

- 10.1 A core part of my role is to promote integrity, accountability and transparency throughout the Public Service and wider public sector.¹⁷ In order to operate effectively in our communities and make a difference, the Public Service needs to have the trust and confidence of New Zealanders.
- 10.2 Leading on integrity, accountability and transparency is a key priority for me and since being appointed to the role I have established a dedicated Integrity, Ethics and Standards team within Te Kawa Mataaho led by a Deputy Commissioner to support me in leading agencies to ensure a trusted, high-integrity Public Service.
- 10.3 Under the Public Service Act, I have three main tools to lead the Public Service and the wider public sector in relation to integrity and conduct:
- (a) Setting minimum standards of integrity and conduct that apply to most public sector agencies, called ‘codes of conduct’;¹⁸

¹⁷ Section 44(b).

¹⁸ Section 17.

- (b) Issuing Model Standards as guidance to agencies outlining the expectations I have on specific integrity areas,¹⁹
 - (c) Using my powers to undertake investigations and inquiries into integrity and conduct matters.²⁰
- 10.4 Through my staff, I also provide advice to agencies on specific integrity and conduct matters, including in relation to Codes of Conduct, associated guidance, as well as the Model Standards.
- 10.5 I use these tools in a cohesive and deliberate way to ensure that high standards of integrity, accountability and transparency in terms of both behaviours and culture are adopted and normalised throughout the system.
- 10.6 I have a broader power to investigate matters relating to Public Service agencies which encompasses all my functions relating to that agency,²¹ and a more limited remit to investigate other parts of the State services which relates to my role of promoting integrity, accountability and transparency and also in relation to minimum standards as set out in the codes of conduct.²² I note that I cannot investigate matters relating to agencies' actions unrelated to my statutory functions.
- 10.7 In my time as Commissioner, I have conducted 8 inquiries. Before conducting these inquiries, I expect that others in the system, particularly the agency Chief Executive, will have carried out their responsibilities first. I focus on using this tool in relation to matters which I consider go to the heart of trust and confidence in the Public Service as a whole, often involving multiple agencies or systemic issues. Where necessary and appropriate, these investigations may also include use of the relevant provisions under the Inquiries Act 2013.²³ The use of these powers is important to ensure agencies and individuals are held to account where there has been a failure to meet the required standards of behaviour from an integrity and conduct perspective. They also serve a critical role in allowing us to learn from our mistakes. I am very clear in my expectations of senior public servants, that we must own our mistakes, fix them and learn from them.
- 10.8 Where an investigation reveals problems with conduct or integrity that requires systemic change, I use the tools available to me to implement an appropriate response. Many of the Model Standards that I have issued to agencies are examples of such responses and I set out further below about some specific examples of changes I have made which may have some relevance to the matters currently before the Royal Commission.
- 10.9 When I set my expectations for behaviour in relation to integrity and conduct, I take a direct and active approach to ensure these expectations are being lived by and within the agencies. This includes following up on specific issues through my Assistant Commissioners, considering complaints that are made to Te Kawa Mataaho about matters relevant to integrity and conduct, monitoring issues that

¹⁹ Section 19.

²⁰ Clauses 2 and 5, Schedule 3.

²¹ Clause 2(1), Schedule 3.

²² Clause 5(4), Schedule 3.

²³ Clause 8, Schedule 3.

arise in the media or in Parliament, as well as using my investigatory powers in appropriate circumstances.

Code of conduct

- 10.10 Minimum standards of integrity and conduct are currently set out in a code of conduct issued in 2007 under the State Sector Act 1988 and called the *Standards of Integrity and Conduct* (the Code of Conduct).²⁴ The first code of conduct was issued by the then State Services Commissioner in 1989 following the enactment of the State Sector Act.
- 10.11 The Code of Conduct has been applied to all Public Service agencies, many Crown entities as well as other government agencies. The Code sets minimum standards relating to being fair, impartial, responsible and trustworthy. Chief executives and staff in those organisations must comply with the standards in the Code. Detailed guidance on the Code of Conduct, called *Understanding the code of conduct – Guidance for State servants* was also issued by the then State Services Commission in 2007.²⁵
- 10.12 The Code of Conduct is underpinned by the fundamental characteristic of the Public Service and the wider public sector that we act with a spirit of service to the community. As noted above, this characteristic is embedded in the Public Service Act²⁶ as well as the Crown Entities Act²⁷ and other public sector legislation. Within that context, the Code of Conduct sets the standards of behaviour expected of public servants.
- 10.13 I am currently in the process of preparing a refreshed set of minimum standards to replace the current Code of Conduct, to be issued under the Public Service Act. This will reflect the Public Service principles and values set out in the Act. I have also issued separate codes of conduct for some groups not covered by the Code of Conduct, including Ministerial staff,²⁸ board members of Crown entities,²⁹ and directors of companies named in Schedule 4A of the Public Finance Act 1989.³⁰

Speaking up and the protection of whistle blowers

- 10.14 Good policies and processes that encourage staff to speak up about wrongdoing are vital for maintaining the integrity of our public sector. In 2017 I issued the Speaking Up Model Standards³¹ in direct response to the investigation I commissioned into the treatment of public servants within the Ministry of Transport who raised concerns about the conduct of jailed fraudster Joanne

²⁴ <https://www.publicservice.govt.nz/assets/Legacy/resources/Code-of-conduct-StateServices.pdf>

²⁵ <https://www.publicservice.govt.nz/assets/Legacy/resources/UnderstandingtheCode-April2010.pdf>

²⁶ Section 13.

²⁷ Section 50.

²⁸ <https://www.publicservice.govt.nz/assets/Legacy/Code-of-conduct-for-Ministerial-staff.pdf>

²⁹ <https://www.publicservice.govt.nz/assets/SSC-Site-Assets/IES/Code-of-Conduct-For-Crown-Entity-Board-Members.pdf>

³⁰ <https://www.publicservice.govt.nz/assets/SSC-Site-Assets/IES/Code-of-Conduct-For-the-Directors-of-Public-Finance-Act-1989-Schedule-4A-Companies.pdf>

³¹ Reissued in 2022: <https://www.publicservice.govt.nz/assets/Legacy/resources/Speaking-up-model-standards.pdf>

Harrison.³² One of the findings in that investigation was that staff at the Ministry were disadvantaged as a result of raising concerns about Ms Harrison's behaviour. This was unacceptable and it is vital that public servants can raise concerns about suspected wrong-doing safely and without fear of punishment or reprisal.

- 10.15 These Model Standards outline my minimum expectations for public sector organisations to support staff on speaking up in relation to wrongdoing concerns that could damage the integrity of the public sector. This covers any kind of wrongdoing. The standards comprise all the key elements for promoting a 'speak up' culture: organisational commitment, operating good processes including timely investigations and keeping people safe from reprisals or other detrimental impacts. They also include an explicit expectation that when a report is made about serious criminal activity, organisations will immediately report the matter to the Police.
- 10.16 In addition to the Model Standards, Te Kawa Mataaho also developed options for the modernisation of what was then the Protected Disclosures Act 2000, as well as to strengthen protections for whistleblowers and to make the regime for making disclosures more accessible for whistleblowers. This work resulted in the repeal of that Act and the enactment of the Protected Disclosures (Protection of Whistleblowers) Act 2022, which came into force on 1 July this year.

Information gathering

- 10.17 In 2018 I undertook an Inquiry under the State Sector Act into the use of external security consultants. This investigation uncovered failings across the Public Service, including breaches of the Code of Conduct relating to the use of private security consultants to undertake inappropriate surveillance.³³ While many of the events were historic and the Inquiry found no evidence of widespread inappropriate surveillance, the findings showed the system was not operating in a way New Zealanders would expect.
- 10.18 In response to the findings of this Inquiry, I issued the Information Gathering and Public Trust Model Standards.³⁴ These Model Standards set out my expectations for information gathering associated with regulatory compliance, law enforcement and security functions. Government agencies need to be clear about why the information gathering activity is necessary, transparent about the kind of activity the agency undertakes, ensure rigorous and independent oversight, and have in place a fair and effective complaints or review process. This is fundamental to fostering New Zealanders' trust and confidence in the Public Service.
- 10.19 After the standards were introduced, I sought and obtained assurance from all Public Service Chief Executives as well as Crown entity board chairs that their agencies were fully compliant with the standards.

³² <https://www.publicservice.govt.nz/assets/Legacy/resources/Report-of-investigation-into-whistle-blower-treatment-within-the-Ministry-of-Transport.pdf>

³³ <https://www.publicservice.govt.nz/assets/Legacy/resources/Report-of-the-inquiry-into-the-use-of-external-security-consultants-by-government-agencies.pdf>

³⁴ <https://www.publicservice.govt.nz/assets/Legacy/Information-Gathering-and-Public-Trust-Model-Standards.pdf>

Positive and safe workplaces

- 10.20 In 2019, I issued the Positive and Safe Workplaces Model Standards,³⁵ which set my expectations for agencies to ensure workplaces are safe and inclusive, where people treat one another with respect and work together to deliver for New Zealand and New Zealanders. The Model Standards support agencies to have environments where people enjoy what they do and can contribute to the maximum of their potential, to crowd out inappropriate workplace behaviour in all its forms.
- 10.21 The most effective way to minimise inappropriate behaviours at work is to create a culture of positive behaviour where these things are not consistent or tolerated. This helps to prevent a range of unlawful or offensive activities such as bullying, harassment and discrimination, which can also cause harm and have a negative impact on the overall culture of a workplace.

11. Public Service Workforce: Workforce assurance and diversity

- 11.1 Individual Chief Executives are the employers of staff in their agencies and hold all the powers and responsibilities of being the employer, including powers to appoint, remove and transfer employees.
- 11.2 My role is to influence the workforce at the system level. As Public Service Commissioner I am responsible under the Public Service Act 2020 for:
- (a) working with Public Service leaders to develop a highly capable workforce that reflects the diversity of the society it services (discussed further below);
 - (b) ensuring fair and equitable employment, including by promoting the good employer requirements in the Public Service Act.
- 11.3 Part of this role is achieved through avenues I have discussed earlier in this brief, including by issuing a Code of Conduct for all public servants, and building the capability of public servants to engage with Māori and understand Māori perspectives. Te Kawa Mataaho also works to:
- (a) Close the gender and ethnic pay gaps in the Public Service.
 - (b) Achieve pay equity in Public Service work, to ensure work is valued based on the skills, responsibilities, experience and effort.
 - (c) Ensure the Public Service is a fair and equitable employer.
- 11.4 In this brief I will focus on my roles in workforce assurance and achieving a diverse and inclusive Public Service. A diverse and inclusive Public Service that reflects the makeup of New Zealand is a crucial step in providing services that meet the needs of all New Zealanders, including our most vulnerable.

³⁵ <https://www.publicservice.govt.nz/assets/SSC-Site-Assets/IES/Model-Standards-Positive-and-Safe-Workplaces.pdf>

Public Service workforce assurance

- 11.5 I am concerned with ensuring the right checks are in place when employing public servants, to ensure that where there are serious integrity issues, these are disclosed. In 2020, I issued the Workforce Assurance Model Standards which provides guidance to agencies on how to reinforce integrity and ethical behaviours through our recruitment and exit processes.³⁶ These processes help to ensure the suitability of the people organisations engage and that the workforce continues to meet high standards for integrity and conduct. In part, these Model Standards were issued in response to the Joanne Harrison case which revealed a need to improve the vetting of staff through the recruitment process, among other things.
- 11.6 Specifically, the Model Standards set out my expectations for the screening of staff during the recruitment process. Screening includes checks relating to identity, right to work in New Zealand, criminal record, robust referee checks as well as confirming whether the candidate has been the subject of any serious misconduct investigations.
- 11.7 More specific workforce restrictions exist for some specific workforces, including people who work closely with children. In 2014, Parliament introduced new safety checks through the Children's Act 2014 (administered by Oranga Tamariki), to reduce the risk of harm to children by requiring people employed or engaged in work that involves regular or overnight contact with children to be safety checked. It is the responsibility of those who employ or engage those working with children to ensure their staff have had the appropriate checks. The Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015 set out the required safety checking process that organisations must follow.
- 11.8 The Model Standards also set out expectations for the handling of serious misconduct investigations, in particular when an individual exits an organisation during a disciplinary process. I have made it very clear in these standards that where criminal activity is identified, organisations should immediately report the matter to the Police. Finally, the Model Standards cover my expectations regarding settlement agreements, in particular to ensure the limited and careful use of confidentiality obligations and non-disclosure statements. My expectations in relation to exits and settlement agreements are intended to support improved vetting during future recruitment processes.
- 11.9 Agencies were expected to start implementing the Model Standards immediately, with them being fully operational from 1 March 2021.

Diversity and inclusion in the Public Service

- 11.10 In the last few years we have made significant progress in building diversity and inclusion across the Public Service. I have built dedicated leadership of diversity and inclusion by:
- (a) establishing a Deputy Commissioner of Leadership, Diversity and Inclusion role within Te Kawa Mataaho in 2020

³⁶ <https://www.publicservice.govt.nz/assets/SSC-Site-Assets/IES/Workforce-Assurance-Model-Standards-August-2020.pdf>

- (b) appointing the chief executive co-chairs of Papa Pounamu (the Chief Executive Group leading on diversity and inclusion), as functional co-leads for diversity and inclusion.
- 11.11 These leaders work together to lead and support our Public Service agencies to achieve our diversity and inclusion aspirations. Papa Pounamu have been advancing a work programme to grow the diversity and inclusion capability of the Public Service. This programme includes five priority areas which Public Service Chief Executives have agreed to make mandatory within their agencies - these are:
- (a) Cultural competence: Agencies are to required to deliver cultural competence training to their people.
 - (b) Addressing bias: Agencies are required to deliver bias learning to all their people and change their workplace structures and systems to reduce the occurrence of bias.
 - (c) Inclusive leadership: Agencies will enhance inclusive leadership practice by ensuring all senior leaders undertake training on inclusive leadership.
 - (d) Building relationships: Agencies encourage all people to build positive and inclusive relationships within their workplaces.
 - (e) Employee-led networks: Agencies are required to actively support, resource and engage with employee-led networks with the support of a dedicated programme team at Te Kawa Mataaho.
- 11.12 Tools and training have been made available to agencies and public servants to improve their capability across these areas and agencies are required to report on progress in their annual reports to Parliament.
- 11.13 In response to the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain, I have been reporting on system progress against Papa Pounamu commitments. The findings are positive, but also show where we can do more, and where to concentrate our efforts. This information is informing how we further strengthen our existing diversity and inclusion work.
- 11.14 Over the past five years, I have worked with Chief Executives on a deliberate approach to increase the diversity of the Public Service. Our focused efforts are working. Our workforce is more diverse than ever before. For example, as at 30 June 2021, Māori representation in the Public Service is 16.4% and Pacific representation is 10.2%, both of which are above the comparative New Zealand working age population. Our senior ranks have gender equity and are becoming more diverse, and new recruits are more ethnically diverse than the existing workforce.
- 11.15 In 2021, Te Kawa Mataaho ran Te Taunaki, the first ever Public Service Census in New Zealand, which has further strengthened our data on diversity and inclusion in the Public Service. For the first time, we have a data on the full range of ethnic diversity seen in the Public Service, as well as public servants' gender, sexual identity, disabilities, mental health, religion, iwi affiliation. Te Taunaki also provided valuable data on how included public servants feel in the workplace. Getting this data gives us a better understanding of how we can

build a Public Service that truly represents the people we serve, and where public servants feel supported to be themselves at work.

12. Whole of Public Service approach

- 12.1 The Public Service has been making real and sustained progress in learning to work as a single, unified Public Service. While public servants in different agencies have always been required to work together, they often struggled to prioritise this cross-agency work within a system which made individual Chief Executives accountable only for the work of their agency. The Public Service Act marks a clear shift, making Public Service Chief Executives responsible for improving ways of work across Public Service agencies, and creating tools to help agencies join up.
- 12.2 Four interdepartmental executive boards have been established making groups of Chief Executives accountable for cross agency priorities, including the Executive Board for the Elimination of Family Violence and Sexual Violence, which is leading the whole-of-government response to family violence and sexual violence. These boards ensure that Chief Executives with the levers to make change are made jointly responsible for the strategic policy, planning and budgeting needed to make that happen, as well as supporting the relevant departments to undertake the work needed. The board mechanism incentivises collaboration and information sharing between agencies. This has helped refocus agency work and discussions towards how they can achieve joint outcomes, rather than on the outputs of each agency.
- 12.3 This focus on achieving joint outcomes is also demonstrated in a number of multi-agency initiatives established within the last decade, which are designed with New Zealanders and their whanau at the centre. For example, the integrated safety response – a multi-agency pilot intervention designed to ensure the immediate safety of victims of violence and their children. It brings together government agencies, local iwi, NGOs to provide funded specialist services for victims and perpetrators, daily risk assessment and triage, family safety plans, a purpose-built electronic case management system that tracks tasks and enables information sharing between agencies, and an intensive case management approach to collectively work with high risk families. Place-based initiatives, Social Sector Trials and SmartStart are other examples of agencies working together and designing services around the service-user.
- 12.4 The Public Service Act makes Public Service Chief Executives responsible for improving ways of working across Public Service agencies. I have been working with the Public Service Leadership Team to get more alignment and interoperability between departments, including through the appointment of Chief Executives as functional leaders, heads of profession and system leaders. This is a key enabler of achieving collaboration between agencies. When agencies operate in consistent ways and with interoperable systems, this makes it much easier for public servants to meet, share information, co-locate, and redeploy, in order to meet the needs of New Zealanders. This alignment and interoperability also enables Government to get a system perspective when making significant decisions and investments, and allows better prioritisation of resource.

13. Key lessons arising from Royal Commission

- 13.1 The Commission has indicated that it would like me to address the key lessons for the Public Service arising out of the work of the Royal Commission.
- 13.2 Listening to the stories of survivors reminds us all that it is the people who are at the heart of the work that we do in the Public Service. Each of the Public Service agencies involved will have reflected on what they have heard during the Commission hearings and recorded lessons relevant to their own areas of responsibility.
- 13.3 As Head of Service, looking across the actions and inactions of the Public Service, it reminds me of the potential for good people to lose their way in big systems, and for adversarial litigation processes to get in the way of resolving problems. This motivates me to redouble my efforts to ensure that the Public Service works to join up agencies, act with a spirit of service to the community, and encourage a diverse and inclusive workforce. We need to continually remind public servants why they work in the Public Service.
- 13.4 Public service agencies and the Crown Response Unit have already begun work with Ministers to implement some of these lessons, which will be wrapped into a broader response following the release of the Royal Commission's report.
- 13.5 Following the release of the Royal Commission's final report, Cabinet will consider the Commission's recommendations and make decisions on each recommendation, as well as how the Crown response will be implemented. The Public Service will then implement Government's decisions.
- 13.6 Government may decide to do this in a similar way to the Crown Response to the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain, where a lead agency was nominated to lead the implementation of the Crown's response. Other agencies may lead on specific actions which are then coordinated by the lead agency.

14. Principles and standards that should underpin the Public Service response

- 14.1 The Commission has indicated that it would like me to address the principles and standards that should underpin the Public Service's ongoing response to the work of the Royal Commission.
- 14.2 I note that Cabinet has agreed a set of principles³⁷ to guide the Crown response. These are:
- (a) manaakitanga – treating people with humanity, compassion, fairness, respect and responsible caring that upholds the mana of those involved;

³⁷ <https://www.publicservice.govt.nz/assets/Legacy/resources/Cabinet-Paper-Crown-engagement-and-response-to-the-Royal-Commission-of-Inquiry-into-abuse-in-state-care-and-care-of-faith-based-institutions.pdf>

- (b) openness – being honest and sincere, being open to receiving new ideas and willing to consider how we do things currently, and how we have done things in the past;
- (c) transparency – sharing information, including the reasons behind all actions;
- (d) learning – active listening and learning from the Royal Commission and survivors, and using that information to change and improve systems;
- (e) being joined up – agencies work together closely to make sure activities are aligned, engagement with the Royal Commission is coordinated and the resulting actions are collectively owned; and
- (f) meeting our obligations under the Treaty of Waitangi | te Tiriti o Waitangi – honouring the Treaty, its principles, meeting our obligations and building a stronger Māori-Crown relationship through the way we operate and behave.

14.3 It is my expectation that Public Service agencies, as part of the Crown Response, will conduct themselves according to these principles.

15. Concluding remarks

- 15.1 To close, I would like to reaffirm my admiration for the courage of the survivors of abuse who have told their stories to the Commission. Their traumatic experiences should never have happened.
- 15.2 The responses of Public Service agencies have broken trust in those agencies' ability to appropriately respond and to demonstrate kindness and compassion. In order to operate effectively in our communities and make a difference, the Public Service needs to have the trust and confidence of New Zealanders. Trust is the foundation upon which the legitimacy of public institutions and a functioning democratic system rest.
- 15.3 The Royal Commission of Inquiry is a crucial opportunity to enable us to learn from the past. It can help us to establish where mistakes were made, and what our opportunities are to learn from them so that they do not happen again.
- 15.4 Understanding the constitutional arrangements in New Zealand is crucial to the lasting impact of the Commission's recommendations. Ministers as a group and their departments collectively comprise the Crown. Ministers decide both the direction of and the priorities for their departments. A Chief Executive of a department or departmental agency is responsible to the relevant Minister for the operation of their agencies and performing their functions and duties. As Public Service Commissioner, I play a part in determining how agencies conduct themselves in delivering these duties.
- 15.5 The Public Service Act 2020 has provided an opportunity to reinvigorate the values, principles and constitutional role of the Public Service, and the fundamental characteristic of the Public Service that is acting with a spirit of service to the community. The Act specifically requires Public Service Leaders to preserve, protect and nurture the spirit of service to the community that Public Service employees bring to their work. I believe that by focusing on these core

values, the Public Service, can learn from the Commission's findings and play its part in rebuilding trust and confidence of New Zealanders into the future.

- 15.6 As Public Service Commissioner, I have a critical role to play in ensuring that the system has integrity, accountability, and transparency. I am committed to wholeheartedly supporting the Commission in learning from our mistakes and delivering better services for children and their families into the future.

Signed: 

Peter Stanley Hughes

Date: 24 August 2022