

# PUBLIC SERVICE PRINCIPLES - WHAT ARE THEY AND WHAT DO THEY MEAN FOR PUBLIC SERVANTS?

**Hannah Cameron and Callum Butler of Te Kawa Mataaho Public Service Commission describe the new Public Service principles and explore what they'll mean for the future Public Service.**

In the last parliamentary term, the Government repealed and replaced the State Sector Act 1988 with the new Public Service Act 2020. The Act provides the foundation for a Public Service that's unified around a clear constitutional role and includes operative provisions to support strong system leadership and flexibility. Ultimately, the Act is intended to help the Public Service join up services around New Zealanders' needs and maintain public trust and confidence in the Public Service.

This article is the first of a series of articles from Te Kawa Mataaho Public Service Commission on the new Act and what it means for public servants. This article focuses on the five Public Service principles set out in Part 1 of the Act. These are:

- **POLITICALLY NEUTRAL**
- **FREE AND FRANK ADVICE**
- **MERIT-BASED APPOINTMENTS**
- **OPEN GOVERNMENT**
- **STEWARDSHIP.**

Enshrining these principles together in one place has two important objectives. First, the principles help to preserve public trust and confidence in the Public Service's function of serving current and successive governments, which is a core part of its constitutional role. Second, having the principles clearly articulated in one place, along with the purpose and values of the Public Service, helps to ensure that the Public Service shares a common set of objectives and ways of working in its pursuit of better outcomes and services for New Zealanders.

As we have seen through the response to the COVID-19 pandemic, public trust and confidence in our public institutions is crucial to the government's ability to effectively deliver for New Zealanders. New Zealand's Public Service has an enviable international reputation for integrity, responsiveness to government, and effectiveness for New Zealanders. Recent research shows that New Zealanders have increasing trust in, and satisfaction with, their public services. However, in other jurisdictions both public trust in government and core supporting principles, such as political neutrality, have been in decline. Codifying the principles in the Act asserts and affirms their importance to our system of government and gives them the force of law as things that underpin and are critical to our Public Service in its constitutional role.

## THE PRINCIPLES HELP TO PRESERVE PUBLIC TRUST AND CONFIDENCE IN THE PUBLIC SERVICE.

Bringing the principles together in one place also ensures their clarity. Before being included in the Act, the principles were not treated consistently in legislation – some were clear legislative requirements (such as merit-based appointments) while others were largely governed by convention (such as political neutrality and free and frank advice). The new Act creates a responsibility for Public Service chief executives and boards of Crown agents to ensure that the principles are upheld in the work of their agencies.

Having the principles in the Act ensures that they are accessible for all public servants and helps to ensure that the Public Service is unified in its work.

When thinking about the principles, public servants have an opportunity to consider not just a minimum set of behaviours but also an aspiration for the future. A discussion of each principle and why they are important is provided below.



**POLITICALLY  
NEUTRAL**

Politically neutral refers to the way that public servants support the Government to develop and implement policies and follow lawful instructions from ministers to the best of their ability and irrespective of their own political opinions. Political neutrality is a long-standing Westminster tradition. It has three main purposes:

1. Allowing public servants to maintain the trust of ministers, giving credibility to their advice and giving ministers confidence that their policies will be implemented faithfully.
2. Allowing public servants to serve successive governments as part of a permanent career-based Public Service, preserving capability and institutional memory. This is particularly important in a small country like New Zealand, where specialised skills may be in short supply.

### 3. Maintaining public confidence in the impartiality of departments.

It is worth noting that public servants have the same rights to freedom of speech and political activity as other New Zealanders. Being politically neutral at work does not generally stop public servants from being politically active outside work. There are no hard and fast rules around the level of political activity that public servants can engage in outside work. It is important that judgment is exercised, and any political interests or activities are identified and appropriately managed.

**WHEN THINKING ABOUT THE PRINCIPLES, PUBLIC SERVANTS HAVE AN OPPORTUNITY TO CONSIDER NOT JUST A MINIMUM SET OF BEHAVIOURS BUT ALSO AN ASPIRATION FOR THE FUTURE.**



#### FREE AND FRANK ADVICE

Free and frank advice refers to the responsibility to provide the best professional advice to ministers, without fear or favour. Like political neutrality, free and frank advice has long been an important feature of the relationship between the Public Service and the Government, and ministers have a duty under the Cabinet Manual to give fair consideration and due weight to this advice. Free and frank advice has two purposes:

1. Improving decision making by giving advice based on an impartial assessment of the risks and benefits of a range of policy options
2. Improving public confidence that ministers have received such advice

and that alternate perspectives have been considered.

The responsibility for tendering advice ultimately rests with chief executives, while individual public servants help to ensure their chief executives are well supported. Note that the principle requires free and frank advice be provided to ministers, not to the public. The role of public servants is to explain policy to the public, not to advocate for or against it. This helps to ensure this principle is not in tension with the principle of political neutrality.



#### MERIT-BASED APPOINTMENTS

This means giving preference to the candidate most suited to the role. This principle originally arose as a safeguard against appointments made on the basis of political affiliation or patronage and is therefore closely related to the principle of political neutrality. The principle of merit-based appointments has three purposes:

1. Improving Public Service performance by selecting the best candidate for the job, regardless of personal views or relationships
2. Maintaining procedural fairness for all candidates
3. Maintaining public confidence in the ability of the Public Service to act impartially and to serve successive governments by supporting the principle of political neutrality. This helps to preserve the capability and institutional memory of the Public Service.

This principle has long been reflected in our legislation through a requirement to “give preference to the person who is best suited to the position” when making appointments. Apart from this general requirement, which may include factors such as team fit, cultural and language competency, or community connections, the New Zealand approach has been to leave merit undefined. This means that the principle of merit is consistent with the principles of diversity and

inclusiveness also set out in the Act – that the group comprising all Public Service employees should reflect the makeup of society.



#### OPEN GOVERNMENT

Open government refers to strengthening democracy, building trust, and improving wellbeing by ensuring New Zealanders can contribute to and influence what government does, and how. Open government does not have the same history as other principles in the Westminster system, but it is becoming increasingly important as citizens in the information age expect to be more informed and involved in government decision making. Open government has a wide variety of objectives, including improving transparency and accountability, encouraging active citizenship and participation, and ensuring responsiveness of government.

**PRESERVING THE PLACE OF THESE PRINCIPLES IS SOMETHING THAT REQUIRES THE SUPPORT OF ALL PUBLIC SERVANTS.**

The Act requires chief executives to foster a culture of open government, thereby focusing on the general approach and attitude expected from the Public Service rather than specific actions. This helps to ensure that the Public Service tends towards openness in exercising its specific functions and decisions, as well as promoting openness to ministers when giving advice. Legislation such as the Official Information Act 1982, the Privacy Act 1993, and the Public Records Act 2005 support this principle by providing specific processes to ensure that information is preserved and accessible to New Zealanders. New Zealand has also been a member of the Open Government Partnership since 2013. This is an international agreement that aims

to make governments more accountable, responsive, and inclusive.



## STEWARDSHIP

Stewardship can be understood as a duty of care for a resource that belongs to or exists for the benefit of others. Such resources include people, information, processes, assets, and legislation. The importance of stewardship has been increasingly recognised in legislation over the past three decades. Stewardship has two key purposes:

1. To protect and enhance the medium- and long-term capability of the Public Service to serve successive governments
2. To protect the long-term sustainability of New Zealand's system of government and support public confidence that this occurs.

Stewardship requires the public service to take active steps, rather than a responsive or passive approach. The Public Service has a dual role: it acts as a steward of public resources in its own activities and it supports ministers to do the same. Public servants help to ensure the principle of stewardship is upheld by contributing to processes within their departments that ensure the people, information, processes, and assets of the Public Service are appropriately developed and maintained and that ministers receive advice that supports them to be good stewards.



## NEXT STEPS

While the Act formally places responsibilities on chief executives and boards of Crown agents to ensure the principles are upheld, preserving the place of these principles is something that requires the support of all public servants. The principles are fundamental

to our ability to maintain public trust and confidence and to deliver the services and outcomes New Zealanders want and need. But as we have seen through erosion in other jurisdictions, they are not unassailable and must be protected and nurtured to ensure they remain a core part of our Public Service ethos into the future.

Te Kawa Mataaho will continue to provide leadership on all the elements of the Act, including the principles, and how we can continue to nurture and develop them as part of our future Public Service. We will also be supported in this role by others with system leadership functions, such as the Head of the Policy Profession, who sets expectations about the quality of policy advice, or the Government Chief Data Officer, who guides the system in respect of open data.

Current standards and guidance relating to the integrity and conduct of public servants can be found on the Te Kawa Mataaho Public Service Commission website. Updated standards and guidance from the Te Kawa Mataaho are in development, with consultation expected later this year.