

# Why We Should all be Nicer to Ministerial Advisers

Chris Eichbaum and Richard Shaw<sup>1</sup>

## Introduction

Karen Baehler's contribution to the previous edition of this journal was a stimulating one in several respects (Baehler, 2005). It provided a reminder of the timelessness of the debate about the rationality of policy-making, gave us something new to think about (the public argument test), and offered a number of thoughtful points on the subject of how far policy analysts should go in their endeavours to do the right thing.

It also prompted the two of us to offer a modest contribution of our own, not so much in relation to the substantive points Baehler makes as in the interests of further illuminating a particular aspect of them. One way of approaching the substance of Baehler's piece is to see it as a commentary on the knotty matter of reconciling Westminster conventions of public service neutrality with the brute political realities of executive decision-making. The traditional protagonists, of course, have been ministers and officials. But these days, whether in Wellington or Westminster – or, for that matter, in Canberra, Dublin or Ottawa – a third element is increasingly in view: the political adviser.<sup>2</sup>

Ministerial advisers, as they are typically called in New Zealand, are increasingly a feature of the executive landscape. While there might be a tendency to assume that they have popped out of the thickets of MMP unannounced, in fact their advent in larger numbers was anticipated – and planned for – in advance of the first MMP election. Amongst others, Shroff (1995), Smith (1995) and the State Services Commission (1994; 1995) all forecast a growing demand from ministers for advice sourced from beyond the public service.

One or two notes of caution were sounded. The Commission wondered how the relationship between political staff and public servants would be managed, and whether the former would be bound by the

conventions governing the collective interest of the government of the day (State Services Commission, 1995, pp.73-74). But on the whole, the prospect was considered an opportunity as much as a risk. Shroff (1994, p.25), for instance, made the point that political appointees in the Swedish Prime Minister's Department played an important role in co-ordinating the policies of parties in coalition.

Whatever the etymology, the data indicate that as recently as 1998 there were just 24 political staff (none of whom were formally classified as ministerial advisers); by 2003 their number had risen to 43.<sup>3</sup>

Ministerial advisers generally attract a pretty poor press. The stereotype is that of a partisan lackey intent on advancing the minister's political agenda at any and all costs, and who is correspondingly immune to reasoned policy debate, which is itself generally advanced by equally reasoned public servants. Doubtless some ministerial advisers may be like this, at least some of the time. (Equally, there may be public service advisers who are selective in the advice they tender, or who craft advice around a pre-determined policy

<sup>1</sup> We gratefully acknowledge the contribution of the Marsden Fund, administered by the Royal Society of New Zealand, whose support enabled us to undertake the research referred to in this article.

<sup>2</sup> Various jurisdictions use different terms to describe advisers employed to provide a partisan perspective to ministers. Australians talk about ministerial staff; in the United Kingdom (UK) references are to special advisers. Here in New Zealand they are called political advisers (Wintringham, 2002) or personal appointees (James, 2002). Our preference is for ministerial advisers, which is the formal classification most likely to attach to staff employed by the Ministerial Services unit of the Department of Internal Affairs to furnish advice, including advice of a partisan nature. When we use the term 'adviser', we are referring to ministerial advisers.

<sup>3</sup> Data were obtained under the Official Information Act 1982, and cover all those employed by Ministerial Services on events-based contracts. They include senior advisers, advisers, press secretaries and media assistants, but exclude executive assistants, who generally perform administrative functions. A request for more recent data is pending a response.

preference.) But that is far from the whole story, and the proposition advanced here is that advisers can assist public servants to negotiate the tension between theoretically rigorous and empirically informed advice, which may be rejected for being insufficiently sensitive to political imperatives, and inappropriately partisan advice, which offends against core constitutional conventions.

While we anticipate a measure of scepticism as an inevitable response to this suggestion, there is evidence to substantiate it. What is more, it comes from the upper echelons of the official family in Wellington, courtesy of a large-scale survey undertaken in early 2005.<sup>4</sup> Amongst other things that exercise explored the extent of contact between senior officials and ministerial advisers (a great deal), assessed officials' overall disposition towards advisers (generally positive), and sought officials' views on the regulation of advisers (no limits on total numbers, but a dedicated Code of Conduct, thanks). It also confirmed what we had thought in a vaguely theoretical sense might be the case, but had previously possessed no empirical support for: that there is a solid core of senior officials inclined to the view that ministerial advisers not only add value to the policy process, but can be of considerable assistance in maintaining and protecting the neutrality of public servants.

## Setting the scene

Given the political imperatives which influence cabinet decision-making, one of the challenges facing public service advisers is the need to ensure that advice is sensitive to ministers' requirements without tipping over into hopeless partisanship.

Baehler (2005) comes at this same issue from a particular direction. In a discussion of the utility of the 'public argument test' as a sort of decision-making criterion for officials, she raises doubts as to whether – in the heat of the policy kitchen – it is possible, much less desirable, for officials to both divine their ministers' political motives and retain an appropriate degree of detachment. (Parenthetically, we might add that care should be taken that the public argument test satisfies the Westminster commitment to 'a constitutional bureaucracy with a non-partisan and expert civil service' (Rhodes and Weller, 2005, p.7). There is a sense in which the public argument test may sit more easily in Washington than in Westminster.<sup>5</sup>)

Baehler is prompted to put the question as a result of Gregory's position on the relevance of policy analysis. Ostensibly, Gregory's view is that in order to be relevant – which Baehler interprets as meaning being capable of 'swaying policy makers and carrying the day politically' (Baehler, 2005, p.4), policy analysis – and presumably by extension the officials who produce it – must be able to engage with:

the dark recesses of political motivation, not only where hidden agendas need to be rationalised by publicly acceptable justifications, but where ultimate motivation depends far less on logical reasoning and much more on tacit beliefs and convictions (Gregory, 2004, p.302. cited in Baehler, 2005, p.4).

Baehler duly demurs, suggesting that any attempt to 'connect analysis to the complex, untidy, and usually opaque domain of political motivation' (Gregory, 2004, p.303; cited in Baehler, 2005, p.4) must necessarily diminish the capacity of public servants to serve future governments in an impartial and professional manner.

It is not clear to us that this is, in fact, what Gregory is saying. Our reading of Gregory's case is that he is simply

<sup>4</sup> The questionnaire was a 68-item instrument comprising a composite measure of officials' disposition towards ministerial advisers, and a mix of forced-choice and open-ended questions. With the considerable assistance of the Leadership Development Centre, it was distributed to 546 senior officials (i.e. tier 1-4) in 20 government departments and the New Zealand Police, who have or have had at some point since 1990 contact with ministerial advisers. We had a response rate of 34.4% (n=188). Just on 3.8% of respondents were chief executives; 26.3% were tier 2 officials; 57.5% were tier 3 officials, and the balance tier 4 or other officials. For a more detailed analysis of results, see Eichbaum and Shaw (2005).

<sup>5</sup> On this matter we have reservations about the application of 'public argument advising' within a Westminster system of government. Baehler asserts that 'the policy advice supplied to the fourth Labour government was a stellar example of public argument advising' (2005: 5). The rejoinder to this is to pose the question: Was this kind of 'advising' consistent with the constitutional obligations and responsibilities attendant upon the Westminster conventions within which the public service must operate? Moreover, in the absence of the constitutional and institutional checks and balances that have been instituted since the days of the fourth Labour government (MMP being the most obvious, but changes to the Cabinet Manual and the Step by Step guide being no less significant for the public service), one might advance the argument that the constitutional obligations on the public service, and more specifically the need to tender free, frank and *comprehensive* advice were all the more pressing at the time of the fourth Labour government. Indeed, the demand for greater contestability in policy advice may be seen as a reaction against public argument advising, and the move to MMP may be seen as providing a constitutional buffer against an administrative and political executive that was *selective* in proposing, and far too efficient in disposing. Put somewhat starkly, we have serious doubts that 'public argument advising' is consistent with the Westminster notion of a 'constitutional bureaucracy'.

raising questions regarding the likely efficacy of any policy analysis which is predicated upon the assumption that, by virtue of its 'rationality', it will be listened to and acted on by political decision-makers. He does not seem to be calling for public servants to connect the political dots. Rather, he is making the point that the political context of decision-making is such that there is no necessary causal relationship between policy analysis and the decisions which such analysis informs. Which raises the question we wish to address here: within existing institutional arrangements in New Zealand, is it possible to reconcile the politics of policy-making and the imperatives of public service impartiality?

## The theoretical case for ministerial advisers

Enter the ministerial adviser.

In the universe of executive government, ministerial advisers tend to hover in a close orbit around their ministers. While on occasion this may be perceived as having ramifications for public servants which are less than helpful, it also represents an opportunity, or perhaps a resource, for officials who work in an intensely political environment but who must do so without being burnt.

The core of the case for ministerial advisers is that precisely *because* they interpolate themselves between ministers and officials, they are able to help the latter understand the political motives and preferences of the former without having to second-guess them. In the words of one of our respondents, ministerial advisers can happily 'go places officials cannot go' (011). These places – negotiations around the formation of a government, conversations amongst coalition partners, relations between minority governments and parliamentary support parties, and so on – may be off limits to officials (unless otherwise authorised by the minister), but our respondents indicated that an understanding of them is tremendously useful to officials.

In other words, a good ministerial adviser can diminish the need for guesswork on the part of public servants by clarifying the minister's wishes, and by 'provid[ing] useful advice on the minister's commitments and priorities, which helps in deciding what issues to bring to a minister's attention' (025). Clearly, a ministerial adviser's views on what counts should not dissuade officials from raising other issues they feel the minister ought to be made aware of. The

point is that the adviser's contribution allows officials to exercise their judgment on such matters at one remove: i.e. the former functions as a sort of insulation device, absorbing or deflecting the political heat so that the latter can get on with the business of providing advice in a free, frank and fearless manner.<sup>6</sup>

That is not to understate the risk that by occupying the space between ministers and their officials, advisers can distort instructions from the former to the latter, and 'contaminate' the advice from the latter to the former. Indeed, one of our respondents reported having experienced 'increasing pressure on departmental staff to capitulate to particular political positions and write advice supportive of such positions' (006).

On the other hand, ministerial advisers can shield officials from pressures which might otherwise result in politicisation. As Lynelle Briggs, the Australian public service commissioner, has noted, across the Tasman it is increasingly recognised that political staff can reduce the chances of ministers asking public servants 'to do things that are verging on the political' (Briggs, 2005: 7). (What is not explained is the curious – to us, anyway – practice at the federal level of drawing ministers' political staff directly from the Australian public service, and allowing them to return there once the tour of duty is finished.) Much the same point was made by one of our respondents, who suggested that ministerial advisers can 'help ensure this [political] dimension is part of the decision-making process and, in doing so, help keep departments apolitical' (087).

There are risks here, including that officials are left unclear as to the extent to which an adviser is conveying the *minister's* wishes rather than simply communicating their *own* interpretation of what should be done. Robust procedures and clear protocols amongst ministers, chief executives and ministerial advisers can go some way to guarding against this risk, as might greater codification of the nature of the delegations ministers can make, as occurs in the UK. It is in the nature of things, however, that the risk can never be fully banished.

As an aside, it should not be assumed that ministerial advisers are only possessed of ulterior motives. The

<sup>6</sup> It is drawing a rather long bow, admittedly, but the function is not unlike that served by the arrangements which mediated contact between the public service and the political parties in negotiations following the 1996 general election.

rational choice presumption of self-interest has fallen from the giddy heights of orthodoxy it occupied in the latter part of the 20th century, now that we're all aware of the methodological flaws and predictive shortcomings associated with it. In our view, that uniquely arid explanation of the motives of social actors should not be exhumed and deployed to impute exclusively nefarious motives to ministerial advisers. It is certainly not unreasonable to infer – from the very nature of the job – a partisan inclination. It *is* unreasonable, however, to proceed from first principles to a conclusion that self-interest motivates all conduct by ministerial advisers. In fact, there is a good deal of evidence from our respondents to the effect that relationships between advisers and officials are in the main collaborative rather than competitive; and mutually beneficial – from the point of view of the quality of advice they jointly work on – rather than zero-sum. Indeed, it may be argued – and this is at the core of debates over the accountability of ministerial advisers – that both advisers and officials share a duty *pro bono publico*.

In any event, whatever the threats ministerial advisers pose to officials – and we certainly do not dismiss them – they should not blind us to the possibility that, in certain circumstances, the roles of ministerial advisers and officials are complementary: partisan dimension + professional expertise = policy advice which is informed, reflexive and cognisant of political realities.

So much for the case for a better press for advisers. What evidence is there, if any, which demonstrates that the complementarity we propose is anything other than a naïve theoretical construct?

## The empirical case for ministerial advisers

It seems reasonable to propose that certain preconditions must exist in order for the sort of relationship we are asserting to exist. These might include a fair measure of contact between the two parties; working relationships which are on the whole functional; and a sense amongst officials that advisers have a legitimate contribution to offer.

As it happens, there is a good deal of contact between senior officials and ministerial advisers (Table 1). That in itself will come as little surprise, and is consistent with the anecdotal evidence to that effect which has been about for some years now. To some extent it is likely simply to be a function of the increase in the number of ministerial advisers. It may also speak to officials' growing willingness to engage as advisers have increasingly gained the requisite experience, identified those areas in which they can add value, and sharpened their contributions.

In addition, the data in Table 1 probably reflect the increasing seniority of our respondents over time. Other things being equal, the more senior an individual becomes, the more likely he or she is to come into contact with ministerial advisers. However, although our data don't allow us to control for individuals' career paths, even when all public servants *other* than those with 21 years of service or more are excluded from calculations, thereby restricting analysis to the only cohort in the study which has had the opportunity to be in contact with each government since 1990, the overall trend is clearly towards greater contact with ministerial advisers.

Those caveats aside, the extent of the contact reported by our respondents, and the rate at which its frequency has increased in the last decade or so, are worth briefly

**Table 1: Contact between officials and ministerial advisers<sup>7</sup>**

	1990-93	1993-96	1996-99	1999-02	2002-05
very frequent	7.3%	11.2%	9.7%	19.4%	24.4%
frequent	11.9	14.4	19	27.7	33.7
occasional	17.4	17.8	26.3	29	27.9
rare	18.3	18.1	20.1	14	11.6
never	45	37.9	24.8	9	2.3
N	109	114	129	155	172

pausing on. Just under 20% of respondents reported having had either frequent or very frequent contact with ministerial advisers during the fourth National government (1990-93). That figure has since nearly trebled to 58.1% (2002-05). Looked at another way, where 45% of respondents recall having no contact at all with ministerial advisers 15 or so years ago, only 2.3% say that that is the case these days.

This familiarity does not, however, seem to have bred contempt: fully 70.1% of respondents agreed or strongly agreed with the proposition that 'ministerial advisers are a legitimate feature of executive government' (17.9% neither agreed nor disagreed, while only 4.9% took issue with the statement).<sup>8</sup>

By acknowledging this status, our respondents may also have been ceding the presence of ministerial advisers in a domain over which officials have traditionally enjoyed a near-monopoly. But rather than resisting this development, most seem to be getting on and making the best of things. Indeed, when asked to describe the state of their personal relationships with ministerial advisers, over two-thirds (72.7%) of respondents described matters as generally positive. Only 4.8% indicated that, overall, things weren't going that well, while a sizeable minority (22.4%) reserved judgement on the issue.<sup>9</sup>

At least in the experience of our respondents, then, the broad preconditions for a functional relationship between officials and ministerial advisers appear to be in place. Whether or not they are sufficient is clearly another matter, although a more detailed exploration of what respondents had to say suggests that they may well be.

Participants' responses to two clusters of questions are especially apposite here. The first asked for their views on whether the advent of ministerial advisers is a positive or negative development. While 57.9% regarded it as positive, only 8.7% saw it as a negative (and 33.3% were undecided).<sup>10</sup> When invited to elaborate at greater length, those who feel positively about advisers tended to make observations which clustered around two themes. The first is that ministerial advisers help keep officials away from the overtly partisan aspects of policy-making. The following two comments largely sum up this type of response:

[Ministerial advisers] are able to undertake negotiations and broker agreements on

legislation that would compromise the political neutrality of officials. If they do this supported by advice from officials that provides a 'negotiating brief', this can be a very valuable role. (086)

Ministerial advisers are important in ensuring departments understand ministers' expectations and views. They provide clarity and a degree of transparency which is important to achieving good communication between departments and ministers. They also provide a mechanism to reinforce the distinction between departmental and political advice if ministers so choose. (041)

Suggestive of the importance of MMP, responses of this kind tended to come arm-in-arm with observations regarding the value ministerial advisers add in the sorts of policy-making conditions generated under the current electoral arrangements. For instance, many more senior officials agree that ministerial advisers make a positive contribution under multi-party and/or minority conditions than disagree with this (52.6% vs. 7.3%); equally, more agree that advisers play a positive role in facilitating relations between minority governments and their parliamentary support parties than do not (42.9% vs. 3.4%).<sup>11</sup>

The second (and related) theme concerns respondents' perceptions of the contribution ministerial advisers make to the policy process. Some of the literature on this issue is sceptical that advisers have much to offer at all (see Anderson, 2005; Mountfield, 2002; Tiernan, 2005). But over half (52.2%) of our respondents agreed or strongly agreed that the contribution made by ministerial advisers is a positive one: only 10.3% disagreed to a greater or lesser extent that this is so, and the remaining 37.5% sat on the fence.<sup>12</sup>

<sup>7</sup> Respondents were asked to indicate frequency of contact on a five-point scale: very frequent; frequent; occasional; rare; never. The data for (a) 1993-96 and (b) 1996-99 are averages of the contact reported for the following governments: (a) National (Nov. 1993-Sept. 1994); National/right of centre (Sept. 1994-Aug. 1995); National (Aug. 1995-Feb. 1996); National/United (Feb. 1996-Dec. 1996); (b) National/New Zealand First (Dec. 1996-Aug. 1998); National/Independents (Aug. 1998-Nov. 1999).

<sup>8</sup> n=184; missing=4.

<sup>9</sup> n=165; missing=23.

<sup>10</sup> n=183; missing=5.

<sup>11</sup> The percentage of respondents who neither agreed nor disagreed with these two statements was 40.2% and 53.7% respectively.

<sup>12</sup> n=184; missing=4.

Again, when pushed on the particulars of that contribution, responses could be grouped into various categories. For 6.2% of respondents the injection of an element of contestability into the policy process is the key contribution made by ministerial advisers. Some have had negative experiences of this, in which ‘advisers have blocked advice from officials to ministers, compromising the policy process’ (147); others are of the more positive view that advisers are able to ‘provide a “reality check” for options presented by officials’ (151).

Other comments drew attention to the political perspective which ministerial advisers bring to the policy table. If it is the case that advisers care little for the niceties of the policy process, then one might expect observations from officials in which the terms ‘politicisation’ and ‘political perspective’ are essentially interchangeable. And while there certainly were accounts of obstructive conduct by advisers, officials also volunteered that:

[Ministerial advisers] can facilitate the flow of information to and from busy ministers, exercising judgment and synthesising information so that ministers can be informed efficiently and in an up to date way. [Advisers] can integrate information from different sources, which aids ministers, but can also help to inform the policy process by incorporating different perspectives. (179)

[Ministerial advisers] can provide clear guidance of what is acceptable to the minister so unacceptable options are not pursued. [They] assist in establishing the policy programme between ministers and departments. (023)

The most significant role of ministerial advisers in the policy process is their role in relaying and clarifying ministers’ expectations and views to senior departmental managers. Clear and blunt explanations about ministers’ opinions and interpretation of issues is invaluable for senior staff, in particular. (041)

## Conclusion

In this brief contribution we have consciously sought to make a particular point, which is that there are aspects of the ministerial adviser’s role which can facilitate, rather than hinder, the core constitutional function of the public service.

That does not blind us to other, less positive dimensions of the relationship between advisers and officials. As noted by a number of commentators (James, 2002; Mountfield, 2002; Scott, 2005; Wintringham, 2002), relations between ministerial advisers and public servants can be fraught. Much of that stems from the core *raison d’être* of ministerial advisers. Thus, some of our respondents reported experiences in which advisers failed to convey advice to ministers, intervened inappropriately in the relationship between a minister and officials, or delayed the release of departments’ policy initiatives which advisers felt were politically unfavourable.

We are conscious, too, that although we have chosen to focus in this paper on the nexus between officials and ministerial advisers, ministers themselves are central to the playing out of relationships within the executive. For one thing, their expectations can determine the particular work a ministerial adviser undertakes. Thus:

some ministers use their advisers just for certain issues, some for all areas of the portfolio; some take a co-ordination role, others are elbow deep in policy development; some work closely with officials, others independently. [It] depends on the relationship between ministers and advisers. (034)

Ministers can also set the tone of relations between advisers and officials. Indeed, many of our respondents stressed the point that functional, productive relationships in ministerial offices depend far more on the aptitude of ministers than they do on the disposition of either advisers or officials. In particular, experienced, senior ministers are felt to be ‘as aware of their advisers’ foibles as of [those of] officials’ (011), and can therefore ensure that relations within the office are managed in an even-handed manner. Conversely, junior and/or less capable ministers sometimes fail to discriminate between the respective roles and responsibilities of advisers and officials. As one respondent put it:

Capable ministers are more able to ‘arms-length’ the political decisions from the provision of objective advice, and understand the value of such an approach. Poor ministers give almost unbridled power to ministerial advisers. (006)

As ever, it is often a bit of both. Some officials have had contact with both ‘highly opinionated and deceitful advisers who were a danger to the policy process [and]

very able and skilled advisers who could very insightfully guide issues and spot difficulties/broker solutions' (031). Others explained that while advisers 'can add value by inserting viewpoints that might be overlooked by public sector advisers, they [can] also inhibit the policy process by seeking to rule out options deemed politically unacceptable' (081).

Our purpose has not been to come down firmly on one side of the fence or the other. Neither has it been to suggest that the advent of ministerial advisers has somehow diminished the need for officials to be appropriately sensitive to the political contexts in which they offer advice.

Instead, it has been to propose that, other things being equal, ministerial advisers can be of use to officials in assisting them to make sense of and negotiate the fluid contours of the political landscape. In short, they may be part of a wider response to the challenge of connecting '[policy] analysis to the complex, untidy, and usually opaque domain of political motivation' (Gregory, 2004: 303). Further, we find it telling that amongst senior advisers themselves – those ostensibly at most risk from the predations of ministerial advisers – there are clear signs of support for this view.

At another level, we are making the case that ministerial advisers can no longer be left out of studies of the core executive. They are here in numbers; many more senior officials are having much more contact with them than was the case even two parliamentary terms ago; and the indications are that they are accepted by many senior officials as a legitimate feature of executive government.

If these are the circumstances practitioners are reporting, it is incumbent upon scholars to better understand the effects and influence of ministerial advisers on relations within government. Properly illuminating the circumstances of policy-making within the contemporary New Zealand state sector requires this. And, as Scott observes, in a normative sense, creating additional value in policy analysis and advising requires public sector advisers to network with 'other key contributors to public policy analysis and advising (Scott, 2005: 14). Looking ahead, more effective networking within the core executive is clearly seen by our respondents as a key element in good Westminster-styled governance.

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