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Better Public Services The Advisory Group Report

On 15 March 2012 the prime minister released the report of the Better Public Services advisory and governance group appointed in May 2011 (the report had been completed in November 2011 but release was delayed over the election period) (Better Public Services Advisory Group (BPSAG), 2011). Public attention focused on the creation of a new ‘business-facing’ government department, the Ministry of Business, Innovation and Employment, and on the ten expectations that collectively made up ‘a new results-driven focus for the public service’, to which the prime minister devoted his speech of 15 March 2012 (Key, 2012). Other initiatives, such as the pooling of justice sector budgets,¹ have attracted little comment in the media but open up possibilities for greater inter-agency collaboration.

Discussion since has tended to highlight two interpretations of the significance of the prime minister’s announcement and the supporting work of the advisory group. Some have seen the foreshadowed reorientation of the public service as signalling ‘reforms’ to be equated with the ‘revolution’ of the 1980s. Others have

been more sceptical: limited departmental restructuring, yet another set of ‘goals’ and further reductions in the resources available were simply continuing the process of adjustment to the machinery and staffing of the public service that has gone on since the State Sector Act 1988 and the Public Finance Act 1989.

In this article I comment from an historical perspective on three selected aspects of the Better Public Services report: coordination and a unified career public service; ministerial responsibility; and the place of the State Services Commission. A review of the public sector in today’s circumstances is welcome. But it is also timely to reassert the values that have served New Zealand well through the century since the Public Service Act 1912.

Why change?

In the 1980s, in the zeal of the ‘revolution’ that culminated in the State Sector and Public Finance acts, there was a frequent tendency to ignore the past – the ‘old’ public service – and where it was acknowledged the presumption was that it was of little relevance to the exciting new world of the ‘new’ public service. Whether deliberate or not, such exclusion of the ‘old’ is common in revolutionary situations. Now, some 25 years later, it is perhaps easier to see that there is continuity in the story of the New Zealand public service which provides at least part of the context in which current problems are being addressed and opportunities taken.

The report states that ‘New Zealand faces the most challenging international economic environment in generations’

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(BPSAG, 2011, p.5). Such judgements are legitimate matters for debate. But it is salutary to recall that over the past century New Zealand has confronted other severe challenges: two world wars; the depression of the 1930s; the deterioration of wool and dairy prices and the terms of trade in 1957–58 (followed by the ‘Black Budget’ and the reinstatement of import controls); the sharp decline of wool prices in 1967 (accompanied by devaluation); the ‘oil crises’ of the 1970s; and the conjunction of balance of payments and fiscal crises in 1984. While the reforms of the 1980s stand out because of their scope and comprehensiveness, past challenges also carried implications for the public service: for instance, in the form of pay cuts and the cessation of recruitment in 1931–32, or staff ceilings and ‘sinking lids’ in the postwar years.

The advisory group’s observation that there is a need ‘to move away from a culture where value for money is a secondary consideration’ (p.6) is surprising. The pursuit of ‘efficiency and economy’ has been a statutory injunction to the public service since 1912, even though the location of responsibility among ministers, chief executives (permanent heads until 1988) and the State Service Commission (the Public Service Commission until 1962) has not always been clear. But it would be hard to find a period within the history of the modern New Zealand public service when measures to improve efficiency and economy were not being explored and promoted. In the early postwar years O and M (organisation and methods review), work study and operations research were favoured approaches to lifting efficiency. In the 1960s and 1970s financial controls – ‘the successive incarnations of the new expenditure order – PPBS, Sigma, COPE, CCEX, compensatory savings’² (McKinnon, 2003, p.263) – were at the forefront of the campaign for greater efficiency and economy.

The history of the New Zealand public service has been one of continuing aspiration towards ‘better public services’ while adjusting to the challenges posed to successive governments by world events. Standing out from this evolutionary process have been two major episodes.

The first was the royal commission on the state services which reported in 1962 (the McCarthy Commission). The initiative for the establishment of the McCarthy Commission came largely from the public service and particularly the Institute of Public Administration (see Martin, 2006, pp.62-8). The supporting rationale was largely that it was 50 years since the Hunt Commission and the 1912 act, and the context within which the public service operated was very different. But this was not an occasion for a radical change of direction. In the event, the impact of the State Services Act 1962 and associated ‘reforms’ was probably much less than those who had sought a considered review of the machinery of government and

after these reforms were put in place, the Better Public Services Advisory Group defines ‘the greatest challenge facing the state services [as] to gain more traction on achieving results: the complex and long term issues that cross agency boundaries’ (BPSAG, 2011, p.23). Cited examples of the societal results to be prioritised are found in ‘law and order’, welfare numbers, educational underperformance, infant mortality and low productivity growth (p.15). The ‘10 challenging results’ announced by the prime minister and deputy prime minister³ cover similar ground. Few would challenge the ministers’ expectations. The characteristic that sets them apart from other objective-setting exercises over the past 40 years is

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staffing issues hoped for or expected.

The second, and much more far-reaching, interruption to the evolutionary path of public service development was the ‘revolution’ of the 1980s. There was a questioning of the whole framework within which the public service operated. In the words of Geoffrey Palmer (speaking in particular about large trading departments):

The first thought was that large bureaucracies were unmanageable, that they were not responsive, that they were not flexible and that they tended to be inefficient as well. We found as a new government that we weren’t actually in control of them in any real sense, and that came as somewhat of a surprise, because as people who believed in the orthodox theory of the Westminster system we were confronted at once with the reality that it does not work. (Palmer, 1988, pp.1, 2)

The result was the all-embracing reforms of the State Sector Act 1988 and the Public Finance Act 1989. Two decades

their quantification. There is an echo of the 1980s mantra: ‘If you can’t measure it, you can’t manage it.’ The danger is that less-quantifiable values are neglected (see, for example, the current controversy surrounding the culture of the ACC).

Nonetheless, the advisory group makes a strong case for improvements in the state services, including ways in which to ‘manage the state agencies that provide or fund services less as a collection of individual agencies, in pursuit of their own singular objectives, and more as a system that is focused on the results that will have the biggest positive impact on New Zealanders’ lives’ (ibid., p.5).

Such a laudable proposition bears a close relationship to a problem that has always troubled governments – that of coordination across the diverse range of entities that make up the state sector.

Coordination

Government agencies (broadly defined) are ‘instruments of the Crown’ (Cabinet Office, 2008, p.36).⁴ The notion of ‘the Crown’ encapsulates the principal

characteristics of the public service as a central institution of the New Zealand constitution: continuity and ‘indivisibility’.³ Commitments made by government agencies retain their validity over time until formally disowned, irrespective of changes at the political level. The centrality to a system of democratic governance of this characteristic assigns a high value to the capacity for institutional memory that marks an effective public service.

Similarly, an agency does not act alone. In all that it does it acts in the name of ‘the government’ or formally ‘the Crown’.

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There is a presumption that agencies will communicate and exchange information and views in promoting and executing the wishes of the government – that their actions (including advice to ministers) will be coordinated. But deficiencies in coordination have been a perennial issue. As long ago as 1940 Leicester Webb was observing that ‘[c]oordination to prevent duplication of work and to secure the harmonious participation of several departments in the one administrative process is less complete’ (than ‘coordination in the interests of economy and uniformity’) (Webb, 1940, p.98). Leslie Lipson in 1948 commented that the existing bureaucratic structure ‘[a]ll too often ... results in the problems being treated as separate ones, in the lack of coordinated planning, and in acute clashes of policy and jurisdiction among the agencies concerned’ (Lipson, 1948, p.382). And as I write the media continue to identify problems of coordination. An article in the *New Zealand Herald* about the management of New Zealand’s exclusive economic zone and continental shelf speaks of ‘a Balkanised bureaucracy with limited responsibilities for bits of the system but with inevitably divergent cultures’ (Fallow, 2012).

The prescription for such diagnoses has traditionally been a reordering of the organisational structure of the state services. And a variant of that approach is again proposed by the advisory group.

Sixteen years ago Jonathan Boston observed that ‘[d]espite continuing debate over the best way of organizing public bureaucracies, no scholarly consensus has emerged on many of the fundamental issues of institutional design’ (Boston, 1996, p.70). One of the undeniable conclusions from experience over two decades since is that there is no

‘one size fits all’ pattern for the machinery of government.

The advisory group’s assessment is that the New Zealand public service now comprises ‘a large number of small focused agencies, with roles that can overlap or duplicate each other’ and with ‘a lack of economies of scale’. Equally, the cross-cutting nature of the major issues confronting the government ‘need[s] action across agency boundaries, and currently this action takes too long’ (BPSAG, 2011, p.20). Underpinning these judgements is the group’s view that one of the ‘defining characteristics of the current New Zealand public management system is how it concentrates decision-rights and accountabilities with the chief executives’.

These arrangements, it continues, ‘support a strong ability to deliver against the “vertical” commitments within a single agency but have constrained “horizontal” leadership – within sectors, across functional areas and for the system as a whole’. The group reports a ‘common belief’ among chief executives ‘that our efforts are spread too thin, are not well coordinated and would benefit from a sharper focus on bigger challenges that are likely to make a bigger difference’ (pp.21, 29).

The advisory group considers a range of options for the change and adaptation of the machinery of government. It ‘suggests [that] a broader spectrum of organisational arrangements is needed than is currently available’: ‘Between the current options of loose agency groupings and structural change, we propose a broader menu’ (ibid., p.26). Specifically, the group presents these broad options on a range from ‘informal’ to ‘formal’: loose agency groupings; mandated sector; joint ventures; semi-structured executive agency model; and fully-integrated departmental model. Leaving aside ‘problematic’ loose agency groupings and the option of moving to larger departments, ‘which is often not appropriate’, the group discusses in more detail the options of:

- (a) ‘hard-’ or ‘soft-wired’ sector boards which would have oversight across the agencies operating in a prescribed sector, whether by mutual consent or through more formal arrangements for financial accountability and reporting;
- (b) *joint ventures* as a way of organising (and dedicating resources to) activities which involve a ‘significant, but not dominant’ element of departments’ (and community groups’) responsibilities, incorporating both policy and operational capability. Scope for such arrangements might lie in such natural resource activities as the availability of fresh water and the value of coastal and marine areas; the improvement of services for at-risk children aged 0–6 and in the contribution and achievement of young people; skills in demand by business, and labour productivity growth;
- (c) *executive agencies* – ‘a new organisational form – to help avoid having either few large, multi-functional departments or many small agencies’ – accountable for their own operational responsibilities but working to strategy, policy and funding arrangements determined by a lead agency. (Such agencies would be more embedded in the core public service than Crown entities.)

Advantages could be gained, the group suggests, from the creation of a single skills and education policy hub and the conversion of the operational arms of departments into agencies focused on delivery in such areas as immigration and the management of schools.

The major decision already announced by the government is the formation on 1 July 2012 of a new 'single, dedicated, business-facing government department': the Ministry of Business, Innovation and Employment, integrating the functions of Economic Development, Labour, Science and Innovation, and Building and Housing. The case for such a major restructuring is worthy of an analytical study of its own – and we must assume that this has been done under the label of 'due diligence' (Joyce and Coleman, 2012) – but it is interesting to note that the advisory group warns against 'a sharp reduction of agencies across the board ... [r]estructuring is expensive and disruptive and can be counter-productive, at least in the short term' (BPSAG, 2011, p.20). And the prime minister has said that 'there is a high hurdle for structural change in the public sector' (Key, 2012).⁶ In the case of the new ministry there are many questions to be asked. What logic lies behind the 'business-facing' claim? What shift is taking place in the dynamics of government? And when and how can the success or otherwise of this major dislocation be judged?

This caution is strongly supported by the hard-hitting critique of Derek Gill and Richard Norman (2011). They have no doubt about the motivation behind the 'addiction' to restructuring over the past two decades. It is 'a result of the "freedom to manage" formula adopted in the late 1980s to *break up a unified and "career-for-life" bureaucracy* that was seen to respond too slowly to the economic crises of the 1980s' (Gill and Norman, 2011, p.262, emphasis added). Gill and Norman, after substantial research, are also forthright in their conclusion that 'in too many cases the result is the loss of institutional capacity, and the undermining of the ability of public organisations to work effectively on cross-cutting issues' (ibid., p.278).

There can be no return to the unified, career, 'old' public service. But it is worthy of note that, historically, job stability and a very real awareness of being employed in the public service – as well as a department – facilitated working across departmental boundaries. Relationships born in the early years of a career were built on as people moved through the ranks towards senior managerial positions. In my own experience this factor was effectively demonstrated in the working of the Officials Economic Committee which coordinated economic advice from

knowledge of departmental legislation, the relationships so significant within a sector, and the context in which policies were formed.

Several motivations can lie behind restructuring the machinery of government. Changes may be initiated for party political reasons (and there has been some media speculation that the creation of the Ministry of Business, Innovation and Employment reflects and strengthens the position of Steven Joyce within the Cabinet).⁸ But the two interrelated themes of the Better Public Services report are

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the 1950s to the 1970s. (Economic matters preoccupied ministerial attention at this time; similar coordinating arrangements for social policy would have been advantageous.) The Better Public Services report is encouragingly strong on the value of cross-agency collaboration. In addition to structural or procedural innovations, however, history suggests that after a period during which 'silo' has been an overworked cliché there is now a need for a deliberate nurturing of the notion of 'the Crown' and the public service, and all that implies for day-to-day ways of working in agencies.

Equally important in the 'old' public service was the accumulation of the aforementioned 'institutional memory' – familiarity with departmental legislation and precedent, that essential component of continuity.⁷ The disrupted careers and short-term appointments that characterise restructuring cut across the objective of effective inter-agency coordination. All too frequently the claim is being made that there is a lack of expertise and experience – of institutional memory – in departments. As I write this issue is at the forefront of public discussion of adventure tourism and safety in mines. Too little credit has been given to the hardened 'Lambton Quay warriors' who over the years built up invaluable

greater efficiency – value-for-money – and 'better results for New Zealanders'. By reducing duplication and through consolidation of activity, it is argued, costs can be reduced. Economies of scale could be realised by consolidating activities with 'a common function, value chain or customer'. Such savings might be found in 'back-office functions' – such as the central agency collaboration through the Central Agencies Shared Services – or in reducing the 'churn' of policy advice (BPSAG, 2011, pp.11, 10, 42). Drawing on the Scott report (Review of Expenditure on Policy Advice, 2010) on the policy process, the group believes that better management of policy advice across the public service, including establishing 'cross-agency policy hubs', could result in major cost savings: an 'attainable medium-term goal could be a 20% saving (or reduction in cost pressures) over five years' (p.42).

The group's emphasis on 'cross-agency' coordination is correctly focused and its remedial approach has some attraction, given that it carefully stresses that '[d]etermining the right organizational form needs to take account of factors such as scope of activities, critical mass and economies of scale as well as the impact on results' (ibid. p.27). Nonetheless, three warning flags are hoisted here: first, the demonstrated

downside of restructuring as discussed above; secondly, the need for the public service leadership – notably the State Services Commission (to which I return below) – to embark on a programme that overtly promotes and encourages a sense of the unity of the public service and the associated virtue of ‘institutional memory’. Thirdly, the organisational changes under consideration add new dimensions to what seem to me to be unsatisfactory features of arrangements for accountability and responsibility in New Zealand government.

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Accountability and responsibility

I would not disagree with the observation of Jonathan Boston and Derek Gill that ‘by international standards, New Zealand has long enjoyed a high degree of government accountability’ (Boston and Gill, 2011, p.244). Rightly, they also note that ‘while formal accountability arrangements matter ... they are not the only thing that matters’; and they urge ‘a new openness to collaborative arrangements and a broad conception of accountability’ (ibid., pp.246, 247). My concern is with the status of what remains, in my view, the cornerstone of the New Zealand variant of the Westminster system: the vicarious responsibility of ministers for the actions of the public service.

K.J. Scott 50 years ago discussed ministerial responsibility for departmental actions in these terms:

Where the actions of departmental officers have been done on the minister’s bidding, the minister is primarily as well as vicariously responsible. Where they have not been done on the minister’s bidding,

the minister’s responsibility is vicarious only. In practice a minister always admits that he is responsible for the actions of his subordinates in the sense of being accountable for them. (Scott, 1962, p.125)

That is how the doctrine was generally understood and, albeit with reluctance at times, practised by ministers and public servants until the 1980s. Controversy attended some much-cited cases: for example, Robert Semple (minister of works) and the 1944 Fordell and Turakina tunnels. And the situation was often

confused by a predictable but misplaced focus on whether or not the minister should resign. That diverted attention from the three components of the doctrine: first, that the minister should, desirably in Parliament, ‘front up’ by acknowledging the error or fault of the department (accountability); secondly, by initiating an enquiry into the situation; and thirdly, by assuring citizens that appropriate action, if necessary, was being taken to correct the error or remedy the fault (taking responsibility).

By 1987 Geoffrey Palmer was striking off in a new direction, claiming that the scope of the doctrine was ‘unreasonably and impractically wide ... it is unrealistic to say that [ministers] must take the rap for things they do not know about and did not authorize’ (Palmer, 1987, p.56). The system put in place by the State Sector Act 1988 and the Public Finance Act 1989 reflected this approach. Arrangements based upon the distinction between ‘outputs’ and ‘outcomes’ aligned respectively with chief executives and ministers and related by contractual arrangements altered the location of accountability. Roger Douglas

put it bluntly in the 1988 Budget: ‘We [ministers] are disengaging from day-to-day departmental decision-making ... the Government is freed from the distractions of daily management decisions and can concentrate instead on broad policy directions and initiatives.’

In the light of these ministerial pronouncements it is important to distinguish between *constitutional responsibility* and ministerial engagement with the *management* of departments. They are quite separate questions. While the ‘decoupling’ of ‘outputs’ and ‘outcomes’ seemed at one level to codify the conventional distinction between ‘policy’ and ‘administration’, it did not affect the responsibility of ministers to answer for the activities of their departments. Twenty years later the Cabinet manual is quite clear:

Ministers decide both the direction and the priorities for their departments. They should not be involved in their departments’ day-to-day operations. In general terms, Ministers are responsible for determining and promoting policy, defending policy decisions, and answering in the House on *both policy and operational matters*. (Cabinet Office, 2008, para 3.5, emphasis added)

Over the past 25 years the constitutional question of responsibility has tended to be subsumed in the concentration on improved performance by public agencies. A consequence has been a temptation for ministers, uncomfortable with the all-embracing scope of vicarious responsibility, to assign responsibility for ‘managerial’ matters to chief executives; and for officials to be expected to ‘front up’ for matters which, before ‘the revolution’, would have been accepted as the responsibility of ministers.⁹ As the chief ombudsman observed as early as 1990, ‘Given the accountability structure for senior officials in relation to outputs ... *ministers* now have every opportunity if they wish to take it to *transfer accountability for outputs to officials*’ (Robertson, 1990, p.9, emphasis added). That has indeed been so in a number of controversial cases (and no doubt

on many issues that have attracted less attention): e.g., blood products in 1992 (Martin, 1994, p.50), the Tourism Board in the late 1990s (Controller and Auditor-General, 1999), and, most recently, the 'modernisation' of the Ministry of Foreign Affairs and Trade.

In a provocative and insightful essay, Di Francesco and Eppel discuss what they call 'the public management heresy': 'the seemingly absent role of ministers within public management systems'. As they read the intentions of the 1980s reforms, '[r]ather than detaching ministers from departmental work, these practices actually attach greater importance to the "managerial" orientation of ministers' roles' (Di Francesco and Eppel, 2011, p.124). The extent to which the executive or managerial role of ministers was an integral part of the 'revolution' is debatable: remember the cry 'let the managers manage'? Were ministers to be among the managers? Or, less dramatically, was the emphasis to be on an expectation that ministers would in future play a more positive role in directing their departments and holding them to the delivery of the 'outputs' that the minister had agreed to purchase. The latter is more in line with my recollection; and Di Francesco and Eppel acknowledge that, in practice, ministers, as a general rule, have not conformed to the 'enduring presumption of a managerial role for responsible ministers' (ibid., p.135).

At the risk of the charge of 'antiquarianism' I suggest that there is still relevance in the metaphor employed by Tom Shand 60 years ago:

The ideal relationship of Minister and departmental head is not unlike that of Siamese twins who move, who stand or fall together. The one looks out principally upon the world at large, the other looks back upon the department which together they must lead. (Shand, 1959, p.67)

Historically, effective relationships between ministers and the 'leaders' of departments have been built on mutual acceptance of the inextricably close links coupled with a focus on their respective environments; and the complementary exercise of their own tailored capabilities

and skills, political and administrative respectively. Such a relationship is consistent with the constitutional convention of vicarious ministerial responsibility.

Whether or not ministers should be more actively involved in the management of their departments, as Di Francesco and Eppel suggest, there is a strong democratic argument for greater attention to be paid to the constitutional responsibility of ministers. In this context the attitude of the present speaker of the House in requiring ministers to answer questions is welcome.

While pursuing the wholly admirable objective of greater collaboration across

and contractual accountability regime that has been in place since the late 1980s will affect ministerial responsibility, quite apart from implications for the day-to-day working relationships among ministers and senior officials. As discussed earlier, the Westminster system assumed a partnership or 'Siamese twins' working relationship between ministers and departmental heads within a constitutional framework that formally identified responsibility. This became blurred after the State Sector Act. Now, with changes contemplated to better focus the resources of the public service on the 'big issues', there is the potential to further dilute the convention of vicarious

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agencies, the Better Public Services report proposes new arrangements for leadership in sectors that are 'founded on a shift in the public management model from decision-rights usually at agency level to more cases where decision-rights are at sector or at system level' (BPSAG, 2011, p.47). Specifically, the group recommends that the State Sector Act 1988 should be changed to 'rebalance the accountability of public service chief executives more towards the delivery of better results and value-for-money, including requirements to collaborate where necessary, and away from the independent management and operation of departments' (ibid., p.53). Parallel changes in the Public Finance Act 1989 would also be required.

The Better Public Services report does acknowledge that increased cross-sector linkages 'will rely heavily on the goodwill of chief executives and on securing alignment of ministerial interests' (p.32). But, not surprisingly, the group does not discuss the way in which the proposed movement away from the hierarchical

ministerial responsibility. For example, how does the appointment¹⁰ of a 'lead CEO' to be accountable for achieving the new targets set by ministers affect lines of accountability for the several agencies involved? (For a perceptive in-depth discussion of the accountability issues involved in joint working, see Boston and Gill, 2011.)

It is not to downplay the search for a better-performing public service to seek to redirect attention to the constitutional issue of ministerial responsibility. A Canadian scholar has neatly captured the concern:

In retaining responsibility for even what may seem minor and routine matters of administration, accepted by all as the work of civil servants, the doctrine [of ministerial responsibility] also retains the capacity for a direct government response to a public need of any scope. Thus the doctrine offers democratic control over bureaucratic

administration past and future.
(Sutherland, 1991, p.100)

The reluctance of an advisory group including senior officials to address the place of ‘ministerial responsibility’ is understandable. But it would be desirable for the topic to receive attention: perhaps the Institute for Governance and Policy Studies could convene a broadly-based round table (see James, 2002, for a previous exercise), or the constitutional review now getting under way could include within its deliberations the location of responsibility for executive acts.

wide leadership roles and appoint chief executives into these roles; and deploy chief executives and second and third tier leaders to critical roles across the system’ (BPSAG, 2011, p.53). Again, as with the appointment of ‘lead CEOs’ to be accountable for the achievement of cross-agency targets, empowering the commissioner to intervene at the ‘second and third tier’ in departments has, on the face of it, the potential for further confusing lines of accountability.

The rationale for this significant move away from current arrangements – where public sector leadership is ‘held loosely and somewhat jointly between

appreciation of the need to retain the confidence of the government of the day. But when departmental heads were having differences with ministers the intervention of the SSC was a means of maintaining in working order the relationships at the centre of government. Underpinning the Commission’s authority was its statutory independence. The Commission also has important leadership roles, certainly no less important than in the past, in setting minimum standards of integrity and conduct (State Sector Act 1988, s.57) and to provide and maintain for the public service ‘persons who have the ability to manage at the most senior level’.¹²

The Department of the Prime Minister and Cabinet, effectively created in 1975, has been described as ‘the constitutional and institutional glue’ of the government. It carries no independence (except in respect of staff matters): it is essentially ‘political’ (albeit not partisan) in its crucial primary function of assisting the prime minister to guide and coordinate the business of the government in office. For a comparative discussion of ‘the increasing concentration of power in the office of the prime minister [which] has become a defining feature in Australia, Britain and Canada’ see Aucoin (2012): his account of the staffing of the top positions in the public service by the prime minister in Australia, Britain and Canada – ‘a serious exception to the normative structure of a nonpartisan public service’ – is a cautionary tale (Aucoin, 2012, pp.184, 191). The ‘checks and balances’ required in a central agency arrangement built around the Department of the Prime Minister and Cabinet, Treasury and the SSC have served New Zealand well and should be maintained.

Given the understandable current preoccupation with ‘more from less’, the case for a respected stand-alone agency providing long-term leadership in service-wide human resources and ethical issues is strengthened not weakened.

Conclusion

The advisory group has opened up new directions for change in the state sector by proposing to extend initiatives already at play in some areas. Its recommendations are more far-reaching than has been

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The place of the SSC

A reduction in the service-wide authority and influence of the State Services Commission was an overt intention of the State Sector Act 1988. Most obvious was the devolution of the employer role to chief executives. Despite the influence associated with the employment of chief executives and the achievements of successive commissioners in such areas as ethical codes, performance and service leadership, the status, both statutory and in practice, of the commission in 2012 is much diminished from its dominant role across the service before 1988.

To an outsider, given speculation over the last few years about the demise of the commission a surprising – but welcome – feature of the advisory group’s report is the proposal that the State Services Commissioner should be formally designated as the ‘Head of State Services’. The new mandate would hold the Commissioner ‘accountable for overall performance of the state services and empowered to appoint sector heads; determine functional system-

the three central agencies’ – is that one agency can be held to account for overall performance of the state sector, although the Treasury and the Department of the Prime Minister and Cabinet will continue to have crucial functions and work closely with the commission. That does not, however, justify the advisory group’s suggestion that ‘it is worth considering merging the Department of the Prime Minister and Cabinet with the State Services Commission *in time*’ (ibid., p.51, emphasis added). To do so would be a retrograde step.

A defining role of the State Services Commission (and its predecessors) from 1912 to 1988 was that it acted as a buffer between ministers and the non-partisan public service. Dignified with appointment by the governor-general and enjoying statutory independence,¹¹ the Commission in matters other than finance was clearly *primus inter pares* among departmental heads. The Commission’s powers were wide – Lipson (1948, p.439) quotes a Commissioner commenting ‘too wide’ – and were exercised with an

discussed in this essay: for instance, in the discussion of opportunities for the use of information technology. The theme that runs through the report is the need to bring to bear on the 'big issues' confronting New Zealand the resources that are found in different agencies across the state sector. Collaboration by various means is proposed. Successful implementation of these proposed measures aims to overcome failings long identified in the 'vertical' accountability structures inaugurated by the reforms of the late 1980s. The virtue of unity in the name of the Crown will again be acknowledged.

Within a framework that is built on the relevance of history, the purpose of this article has been: to caution against major structural change (and the attendant disruption and threat to 'institutional memory'); to question the clarity of lines of accountability in some

of the arrangements now proposed; to urge that renewed attention be directed towards the importance of the convention of vicarious ministerial responsibility; and to assert the virtues of a separate dedicated central personnel agency – not least in taking the lead in encouraging a sense of the unity of the public service as an institution at the centre of the New Zealand constitution.

References

- Aucoin, P. (2012) 'New political governance in Westminster systems: impartial public administration and management performance at risk', *Governance*, 25 (2), pp.127-99
- Better Public Services Advisory Group (2011) *Better Public Services Advisory Group Report*, Wellington: Department of the Prime Minister and Cabinet
- Boston, J. (1996) 'Institutional design in the public sector', in J. Boston, J. Martin, P. Walsh and J. Pallot (eds), *Public Management: the New Zealand model*, Auckland: Oxford University Press
- Boston, J. and D. Gill (2011) 'Working across organisational boundaries: the challenges for accountability', in B. Ryan and D. Gill (eds), *Future State: directions for public management in New Zealand*, Wellington: Victoria University Press
- Cabinet Office (2008) *Cabinet Manual*, Wellington: Department of the Prime Minister and Cabinet
- Controller and Auditor-General (1999) *Inquiry into Certain Events Concerning the New Zealand Tourism Board*, Wellington
- Di Francesco, M. and E. Eppel (2011) 'A public management heresy: exploring the "managerial" role of ministers within public management policy design', in B. Ryan and D. Gill (eds), *Future State: directions for public management in New Zealand*, Wellington: Victoria University Press
- Fallow, B. (2012) 'New Zealand's marine rights come with duties', *New Zealand Herald*, 3 May
- Gill, D. and R. Norman (2011) 'Restructuring: an over-used lever for change in New Zealand's state sector', in B. Ryan and D. Gill (eds), *Future State: directions for public management in New Zealand*, Wellington: Victoria University Press
- Heppell, T. (2011) 'Departmental restructuring under New Labour', *Political Quarterly*, 82 (3), July-September, pp.425-34
- James, C. (2002) *The Tie That Binds: the relationship between ministers and chief executives*, Wellington: Institute of Policy Studies/Centre for Public Law
- Joseph, P.A. (1993) *Constitutional and Administrative Law in New Zealand*, North Ryde, NSW: The Law Book Company
- Joyce, S. and J. Coleman (2012) 'Ministry of Business, Innovation and Employment confirmed', media release, 26 April
- Key, J. (2012) Speech to the Auckland Chamber of Commerce, 15 March
- McKinnon, M. (2003) *Treasury: the New Zealand Treasury 1840–2000*, Auckland: Auckland University Press
- Martin, J.R. (1994) 'The role of the state in administration', in A. Sharp (ed.), *Leap into the Dark*, Auckland: Auckland University Press
- Martin, J.R. (2006) *Spirit of Service: a history of the Institute of Public Administration New Zealand 1936–2006*, Wellington: Institute of Public Administration New Zealand
- Palmer, G. (1987) *Unbridled Power* (2nd edn), Auckland: Auckland University Press
- Palmer, G. (1988) 'Political perspectives', in J. Martin and J. Harper (eds), *Devolution and Accountability*, Wellington: GP Books
- Review of Expenditure on Policy Advice (2010) *Improving the Quality and Value of Policy Advice*, <http://www.treasury.govt.nz/statesector/policyexpenditurereview>
- Robertson, J. (1990) 'Ethics in the public sector: the role of Parliament and officers of Parliament (a New Zealand viewpoint)', paper presented to the Royal Australian Institute of Public Administration, Brisbane
- Scott, K.J. (1962) *The New Zealand Constitution*, London: Oxford University Press
- Shand, T.P. (1959) 'The expert and the policy maker', in N.C. Angus (ed.), *The Expert and the Administration in New Zealand*, Wellington: New Zealand Institute of Public Administration
- State Services Commission (2002) 'History of the Office of the State Services Commissioner', www.ssc.govt.nz/history-ssc-office
- Sutherland, S.L. (1991) 'Responsible government and ministerial responsibility: every reform is its own problem', *Canadian Journal of Political Science*, 24 (1), pp.91-120
- Webb, L. (1940) *Government in New Zealand*, Wellington: Department of Internal Affairs

'any department or instrument of the government, or any branch or division thereof'.

- 6 It should be noted that the National-led government in its first term incorporated the National Library and Archives New Zealand into the Department of Internal Affairs, brought the Ministry of Fisheries into the Ministry of Agriculture and Forestry (now the Ministry for Primary Industries) and merged the Foundation and Ministry of Research, Science and Technology into a new Ministry of Science and Innovation.
- 7 The costs of restructuring, albeit within one department, in terms of institutional memory and continuity have been to the fore in current discussion of change in the Ministry of Foreign Affairs and Trade.
- 8 For an interesting commentary on machinery of government changes in the United Kingdom during the Blair regime, see Heppell, 2011).
- 9 It is instructive that the State Services Commission website (in 2002) lists among the factors causing 'friction' 'increased exposure of public servants to criticism (including public criticism from Ministers and politicians) and reduced anonymity' and 'increased pressures to advocate and explain on behalf of Ministers'. A decade later the same observations are frequently made.
- 10 See SSC website, <http://www.ssc.govt.nz/bps-results-for-nzrs>, 25 June 2012.
- 11 The commissioner's independence is preserved in the current legislation, with the significant exception of chief executive appointments (State Sector Act 1988, s.5).
- 12 The language is taken from the revoked section 46 of the 1988 act relating to the Senior Executive Service; while the SES was short-lived the commission's role remains. Without any reflection on the individuals concerned, the recent appointments of the heads of Treasury, Health, Education and Work and Income from overseas at the very least raises questions about the efficacy of succession planning.