



## **Submission of the Society of Local Government Managers on the Public Service Legislation Bill**

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The New Zealand Society of Local Government Managers (SOLGM) thanks the Governance and Administration Select Committee (the Committee) for the opportunity to submit on the Public Sector Legislation Bill (the Bill).

### **Who are We?**

SOLGM is an incorporated society of approximately 870 members drawn from local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities.<sup>1</sup> We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical and managerial implications of legislation.

Our vision is:

*Professional local government management, leading staff and enabling communities to shape their future.*

The Bill modernises the legislation governing the public service. There are two reasons why SOLGM has decided to submit on the Bill. There are, and should be, strong parallels in the manner in which the public sector is required to operate and the local government Chief Executives and managers are expected to operate. Second, local authority staff and management frequently collaborate with the public service: to review policy and legislation and advise on cross-sector matters (such as the Auckland Transport Alignment Project).

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<sup>1</sup> As at 15 January 2020.

## **General Support for the Bill and the Wider Reforms**

SOLGM supports the general policy direction for this Bill, as well as the wider reforms to the public sector announced in the past year. The amendments suggested below are refinements and improvements to the Bill or matters of clarification.

The challenges of the 21<sup>st</sup> century require a joining up of thinking and action so the public service must think and act as a single entity rather than in functional 'silos'. As an aside this joining up also needs to extend to the relationship between central and local government.

We also welcome the intent to establish a greater regional presence, including the establishment of regional leads in the public service. These roles support the joining up of central and local perspectives, allow for better communication and building of understanding of the different needs of local communities. The reforms are an important first step. In the long-term local communities will expect a greater level of say in the direction central government investment takes and in the design of local services.

## **Specific Comments on the Bill**

### **Cross-Sectoral Workforce Issues**

While the public sector and local government managers and staff have different authorising environments, they are expected to operate to similar values and in a similar manner. Both exist to provide their respective decision-makers with free and frank advice and to implement policy decisions. It might also be said that the public doesn't necessarily draw a distinction between central and local government, especially when it comes to their respective workforces.

There is a significant degree of sameness about the types of challenge each workforce is facing. Each is dealing with similar issues with recruitment and retention, especially in the context of an aging workforce. The development of leadership capability is likewise common to both sectors – indeed as a sector we will be following the restoration of a sector-wide public sector senior executive capability. We will also be watching the development of the leadership strategy and the workforce policy with interest.

There are many other workforce issues where local government and central government would benefit from a joined-up approach. During 2018 SOLGM worked with the Serious Fraud Office and other Crown agencies on a cross-agency strategy to prevent and detect fraud and corruption. Other opportunities might include open

government and access to official information; the Treaty of Waitangi principles (and working in partnership with Māori); health and safety; and diversity.

This is to say nothing of the many skill and competency needs that are common to both sectors. Competencies that support the craft of policy advice and advising are common to both sectors – yet there is little attempt to join the professional development responses for both (at least at government level). There has been some recognition that there is commonality in the skills necessary in the regulatory workforce in the establishment of the Government Regulatory Practice Initiative (G-Reg).

One of the consequences of a failure to take a joint approach to workforce development is a bidding-up of costs. Last year, we were made aware that Kāinga Ora were aggressively recruiting for skilled building inspectors and other building regulatory staff. This included their recruitment agent directly approaching every building inspector employed in one council with offers of considerably higher remuneration and other benefits, we understand that this extended to other councils in the same region. The result – the council was forced to offer market premiums to all their building staff at considerable cost. We have concerns that the establishment of Taumata Arowai could have a similar impact. A failure to plan for skill needs across government is in no-one's interest long-term.

We submit that there is a compelling case to support the creation of a cross-sector forum or advisory group that would provide the legislative vehicle for taking a joined-up approach to these challenges. We see this as a legislatively mandated advisory group. There have been attempts to establish such a forum in the past, but these have tended to focus on policy issues and largely ignore workforce and capability matters.

We see this as a responsibility of the Commissioner given the workforce development aspect to the role. The Commissioner's role as the employer of public service Chief Executives will ensure involvement in this forum and its work programme being seen as important. Giving it the imprimatur of legislation is (unfortunately) necessary to make sure it happens and both parties resource the group and its priorities appropriately.

### **Recommendation: Cross-Sectoral Workforce Issues**

- 1. That the Bill provide for an advisory group to identify and resolve issues common to the central and local government workforces.**

## Responsibilities of the Commissioner

We join with LGNZ's comments on the role of the Commissioner thus:

*"As drafted the provisions constrain the Commissioner's focus to matters that occur within the context of the national public service, yet many of the areas critical to government performance hinge on the quality of the relationship between the national public service and its local counterpart.*

*A fourth requirement is needed to give the Commissioner oversight of the level and quality of engagement between public servants and local government. The importance of this has come up many times with departments trying out various strategies. Most recently the New Zealand Government, in an initiative led by DPMC and undertaken collaboratively with LGNZ and SOLGM, published a "Guide for central government engagement with local government". The Guide sets out best practice for public servants when seeking to engage with councils and has been widely distributed to departments and Crown agencies. It can also be downloaded from the Department of Internal Affairs' website.*

*In the process of drafting the Guide the importance of having a core department, one with an overview of the public service such as the State Services Commission, with explicit responsibility for overseeing and monitoring the state of the relationship became apparent."*

### **Recommendation: Role of the Commissioner**

- 2. That clause 42 be amended to add oversight of the nature and effectiveness of arrangements for facilitating the relationship between the public service and local government.**

## State of the Public Service Briefing

Clause 14 of Schedule 3 of the Bill places the Commissioner under an obligation to prepare a briefing for the Minister setting out issues relating to the stewardship of the public sector.

The requirement is that the report be prepared at least once every three years. We suspect that the key trends and issues that such a briefing would traverse don't change much from year to year. Reports on a frequency of less than three years will be an exception rather than the rule.

That being the case, we submit that the optimum time for such a report should be aligned to the general election. It could be viewed as a document released before the election (along similar lines to the Pre-election Economic and Fiscal Update) or as part of the documentation the Incoming Minister receives.

Much of our submission has emphasised the importance of cross-sectoral workforce development and the need for both to work together at the official's level. The state of the public service briefing should include an assessment of the relationship between central and local government, including the effectiveness of engagement with the sector.

### **Recommendation: State of the Public Service Briefing**

**That clause 15 of Schedule of 3 be amended to:**

- 3. align the timing of the state of the public service briefing to the general election**
- 4. require the Commissioner to include an assessment of the relationship between the central and local government workforces.**

### **Insights Briefings**

SOLGM supports the obligations on departmental Chief Executives to produce a long-term insights briefing at least once every three years. These documents provide information about the medium and long-term trends, risks and opportunities that may affect New Zealand. We particularly support the public nature of these documents.

We weren't clear whether the intent was that Chief Executives would prepare:

- a) a single briefing once every three years that identifies all of the relevant long-term trends, opportunities and risks in the CE's departmental areas of focus or
- b) a set of briefings on individual topics or
- c) both.

We see value in each of these, but the requirement to prepare once every three years suggests the intent is probably for a single briefing covering all matters. In that case, such a briefing is likely to be most useful to Ministers and the public if it is received at the start of each term of Parliament. Ministers might then take the contents of the briefings into account when developing work programmes with the responsible departments.

We note that the Bill has expressly stated that these insights briefings are not to express agreement or disagreement with government policy. In our view Clause 8(2)(b) of Schedule Six is unnecessary as no prudent Chief Executive would take it on themselves to publicly criticise government policy.

We think this formulation may unduly limit the content of the insights briefing. Arguably, an insights briefing that directly states agreement or disagreement with government policy may violate principles of neutrality. On the other hand, an insights briefing that doesn't consider where New Zealand might stand, and opportunities to address an issue or trend, or improve the way the issue is being addressed is something of a missed opportunity. It may also violate the principle that the public service provides free, frank and fearless advice.

**Recommendation: Insights Briefings**

**That clause 8, schedule 9 of the Bill be amended to:**

- 5. establish that insights briefings be prepared as soon as practicable after each general election and**
- 6. clarify that Chief Executives may identify opportunities to enhance the existing policy and legislative framework with respect to a particular opportunity, trend or risk.**