



SUBMISSION

to the

STATE SERVICES COMMISSION

on

**THE REFORM OF THE STATE SECTOR ACT 1988:
DISCUSSION DOCUMENT**

October 2018

About PPTA

1. PPTA represents the majority of teachers engaged in secondary education in New Zealand, including secondary teachers, principals, and manual and technology teachers.
2. Under our constitution, all PPTA activity is guided by the following objectives:
 - (a) To advance the cause of education generally and of all phases of secondary and technical education in particular;
 - (b) To uphold and maintain the just claims of its members individually and collectively; and
 - (c) To affirm and advance Te Tiriti O Waitangi.
3. PPTA is interested in these proposals because:
 - PPTA members are teachers and principals who work in the public sector;
 - PPTA members work alongside, and are affected by the decisions of, public officials who work in the state sector and broader public sector; and
 - PPTA bargains collective agreement and enforces employment conditions for members under the State Sector Act 1988 and Employment Relations Act 2000.

General Comments

Lack of Consultation Period

4. While PPTA appreciates officials from the SSC coming to visit PPTA's Executive meeting to discuss the rationale for the proposals, like many other submitters, PPTA is concerned about the ridiculously short timeframe available for consultation on these proposals. This is particularly alarming given the complexity of the constitutional arrangements and implications for the Crown-Māori relationship under the Treaty of Waitangi. Such a rushed approach has also impacted on the composition of the discussion document. For example, some parts are written in a way that seems to be appropriate for the service delivery section of the public service, while another (such as the free and frank advice provisions) are more appropriately targeted at civil servant engaged in policy development / in close working relationships with Ministers. A better process would have been to have adopted the first principles consultation approach that is being used through the Review of Tomorrow's Schools.

Employer Divisions for School

5. The PPTA would welcome some changes to the current state sector employment model as it applies to teachers in schools, as it is highly problematic, with the Secretary of Education as the employer for the purpose of collective bargaining, and individual schools for daily application and enforcement. The Ministry has little incentive to enforce the collective agreement in schools, and is often unaware of the realities of its application, and schools as employers have little commitment to national collective agreements that they often do not understand well. The PPTA would be very interested in working with the Ministry and other unions on changes that will address these problems.
6. PPTA approves this submission being shared online.

History: Cause and Effect

7. The enactment of the State Sector Act 1988 (“**the Act**”) needs to be seen alongside other reforms that impacted on the delivery of public services and conditions of public servants (including teachers) in New Zealand in the late 1980s and early 1990s. The Public Finance Act 1989, the decentralisation of public health services to DHBs and public education through the adoption of “Tomorrow’s Schools”, and the radical reform of employment legislation were three of the most radical changes to the public sector fabric that New Zealand has experienced since the creation of the State Services Commission in 1912 and Michael Joseph Savage’s extension of public services in the 1930s and 40s. However, unlike those changes, the 1980s/90s neo-liberal reforms have contributed to widening inequality in New Zealand, out-sourcing and privatisation of core public services with overall lower quality and the loss of institutional knowledge.
8. We dispute the suggestion in the discussion document that there have been “few voices calling for change to the State Sector Act”. The original Bill preceding the Act was introduced with little to no consultation, and under an FPP electoral system had limited changes in the Government Administration Select Committee, despite fierce public campaigning, 191 written (and 89 requested) oral submissions¹, and concern raised by trade unions, teachers, parents and other members of the community. The former head of the State Services Commission (Dr. Mervyn Probine, 1981-1986) was amongst those who submitted very strongly against the State Sector Bill when it was introduced. In a media interview at the time he advised that:

“... my concern is that for seventy-five years New Zealand has had an apolitical, or politically neutral, Public Service where the staff from the Permanent heads down were appointed on merit... Now before 1912 Ministers had the authority to make appointments, to terminate services, approve promotions, decide pay rates, and Ministers of the day adopted political patronage pretty freely, and with all its consequences, inefficiency, corruption, ability at attracting staff. In 1912 that power of political patronage was removed from Ministers and the act provided for an independent authority, the State Services Commission, to appoint and promote public servants, determine pay rates, to discipline and all those sorts things, and also to protect individual public servants from political interference.... Now the Prime Minister will not only be involved in the appointment [of chief executives of government departments], the fixing of the conditions of employment, but also has to agree before you can dismiss for a reasonable cause.”

9. Almost overnight, teachers were facing the potential loss of all employment conditions won over decades with the switch from a statutory arbitration and award system with “green manuals” setting out the terms and conditions of secondary teachers in New Zealand. A thorough process of codifying with references was undertaken to continue these provisions. However, the following decades under the new employment system saw many attempts by the Government to claw back teachers’ hard-won conditions, such as the maternity grant and parental leave, resisted only through the threat of (and actual) industrial action without the circuit-breaker of the courts to set conditions (*with the recent exception of a modern understanding of the Equal Pay Act 1972*).

¹ New Zealand Parliamentary Debates. *Hansard* (18 February 1988): <https://drive.google.com/file/d/0B1lwfzv-Mt3CNC1DSENQYllwNDg/view>.

10. Over the past 30 years, New Zealand has become an increasingly unequal society. For example, “New Zealand:

- Now has the widest income gaps since detailed records began in the early 1980s;
- From the mid-1980s to the mid-2000s the gap between rich and the rest has widened faster in New Zealand than in any other developed country;
- The average household in the top 10 per cent of New Zealand has nine times the income of one in the bottom 10 per cent; and
- The top 1 per cent of adults own 16 per cent of the country’s total wealth, while the bottom half put together have just over 5 per cent.”²

11. Strong and effective public services are needed now more than ever. However, within the education sector, we know that the Tomorrow’s Schools model (while having positive aspects of local engagement and responsiveness) has many problems, for example:

- **Inequity:** Inequity in our school system arises in three key areas: decentralising governance, funding, and property.
 - Decentralising governance to school boards – comprising volunteers from the community – has not worked well for our most vulnerable communities. In 2017, one in 16 schools had been the subject of government intervention within the last three years: 154 schools had either a Limited Statutory Manager or Commissioner who acted in place of the board after problems, and 65 schools were under Crown management. The average length of intervention was 19 months, with the longest lasting 14 years. Schools that are not well managed cannot provide excellent education to students.
 - The current school funding arrangements impact negatively on the most vulnerable students within the Tomorrow’s Schools framework.
 - School property management varies significantly across the school system, with the result that the Government is currently predicting that it will have to spend \$1bn by 2030 to bring all schools up to code.
- **Student achievement and wellbeing:** While New Zealand’s top students performed well in the latest PISA and TIMSS results, the gap between the low and high achieving students is persistently wide. A similar disparity arises between schools in their ability to respond to students who need extra support, such as students with anxiety or learning needs. Researcher, Dr Cathy Wylie, has advised that New Zealand teachers will not be able to respond to the needs of our most vulnerable students if they continue to operate in isolated schools.
- **Inefficiencies:** all 2,400 schools have the burden of individual financial and administration functions which is expensive duplication – for example, individual schools paying for auditors adds up to millions of dollars each year (a waste of time and money – it should be streamlined).

12. New Zealand can and should do better.

² Rashbrooke, Max *Inequality: A New Zealand Crisis* (Bridget Williams Books Ltd., 2013), pp 1 to 2.

13. There has been an increasing realisation by Governments of the inefficiencies of a silo'd, competitive, market-driven approach to public services. For example:
- In the intervening years within education we have seen modifications to the system that gives greater control to the Ministry of Education (e.g. tighter control of initial teacher education), the introduction of decile funding to assist schools in lower socio-economic communities, and Investing in Educational Success (IES) to encourage greater collaboration better schools;
 - The “Better Public Services” policy of the previous government, that attempted to encourage greater collaboration across government departments; and
 - The return of certain services into public ownership – such as KiwiBank and the railway system.
14. The previous government’s “Better Public Services” policy of government departments working more collaboratively was sound in principle but we agree with the central premise in the SSC’s discussion document that a fresh approach to public services and the state sector is needed to meet the present and future challenges. The BPS targets in education became a top-down drive to meet arbitrary metrics, and as always created a raft of unintended consequences. They were not shared across departments or agencies, and instead became a stick for the Ministry of Education to drive compliance from schools and teachers. The broad changes that the SSC discussion document proposes will not be achieved by tinkering with an amendment act or solely relying on non-legislative options.
15. A useful starting point for analysing the proposals in the discussion document is to consider what the purpose of Government actually is. In his recent book³, academic and commentator, Max Rashbrooke articulates the concept of “government for the public good” including seven vital tasks of government:

“... preserving law and order, protecting the planet, urban planning and place-shaping, organising infrastructure, **providing** health and **education**, redistributing income and wealth, and managing the economy.”⁴ [Emphasis added].

Response to Specific Questions

Purpose, Principles and Values

Should the purpose, principles, and values of the New Zealand Public Service be included in the Act? Why do you think that?

16. A united, cohesive and collaborative public service is something that New Zealanders both expect and deserve. In theory, a purpose statement, values and principles (“PVP”) help to establish a common framework for a united identity. But the changes will not be through this alone while we continue to have an overworked workforce that is struggling to manage their core functions after ten years of under-funding and a legal framework within the State Sector Act that creates separate legal entities, financial lines and accountabilities within individual departments.

³ Rashbrooke, M. (2018) *Government for the Public Good: The Surprising Science of Large-Scale Collective Action* (BWB Press, Wellington).

⁴ Ibid, pg. 19.

17. We note the NZCTU's point in their submission that:

“The proposal to include statutory principles and values in new legislation is appealing but also fraught. Even more problematic is legislating for principles that would be relevant and meaningful in an extended public sector – as proposed. Workers, professionals and professional associations have questions about how statutory principles and values would apply. A major concern is the tension created from more legislative requirements regarding behaviours and ethics in sectors where workforces are already heavily regulated. In the education sector there are already multiple codes that apply. The health sector is similarly or if not more heavily regulated.”

18. The Minister, Hon Chris Hipkins, advised PPTA in a meeting that the PVP are not intended to apply to teachers because teachers are already subject to a plethora of standards (both legislative and guidance documents). For example, teachers have:

- Standards for the teaching profession, promulgated under the Education Act 1989
- Legal obligations in relation to vulnerable children
- Proposed legal obligations in relation to family violence victims
- Professional standards promulgated under collective employment agreements
- Legal requirements under other legislation, such as health and safety and privacy
- Employment and school specific policies
- Professional code of ethics and policy as PPTA members.

19. In deciding whether the PVP should be in legislation or not, the starting point should be considering what the purpose and effect of doing so will be. Legislation provides a more permanent format for the articulation and expression of PVP – and including these in primary legislation will ensure the relative longevity and raises the status of each element. It is important to note that Courts and tribunals may take these into account when considering decisions made under the Act and interpret legislation consistently with the PVP. Given the effect that these features would have within a legal framework, the rushed consultation and development period for these areas is constitutionally inappropriate. We compare this with the best practice consultation process that is being undertaken through the first principles review of Tomorrow's Schools.

How should the principles and values be enforceable?

20. The starting point should be whether they need to be enforceable. There are already sufficient mechanisms within professional regulations, criminal and employment law (including the terms and conditions of employment) to address any serious behaviours such as corruption or abusive conduct. Over-regulation will simply burden busy professionals and is not the way to build a high-trust public sector working environment.

21. If you want to embed culture change, then you have to look at how people are motivated and the conditions in which they are being asked to act. What leadership are senior managers in the public sector taking to achieve this common vision? What workplace culture have they created? In the absence of changing the legislative framework completely to eliminate individual legal entities for government departments, the Government needs to consider what other options there are for public sector leaders being motivated to follow the PVP and inspire their staff to do the same. For example, what opportunities are there for cross-departmental training – to build relationships and

common understanding? How do leaders reconcile the PVP alongside their own departmental vision statements?

How can the Act help build the trust and confidence of citizens in the Public Service?

22. In 1988, the former head of the SSC, Dr Probine, spoke about the diversity of the public sector:

“... now programmes like “Glide Time” which are good fun may in fact have given people a rather false image of the public service. It was so well acted that it may have been believable. But let me say that I think the Public Service is excellent in New Zealand..... the recruitment standards are very high.... I don't think people appreciate the diversity of the public sector... people tend to think of queuing up at a counter for an income tax form. [But there are] park rangers... scientists, the doctors, the foresters, the surveyors, the excellent maps that are produced and so on...”

23. In 2017, New Zealand ranked in first place on Transparency International's Corruption Perception Index.⁵ We also note that the SSC's own *Kiwis Count Survey* for 2017 found that “76 percent of those surveyed say they are satisfied with the level of service provided by Government agencies, up from 74 percent last year.”⁶

24. This does not mean that there is not still room for improvement.

25. Building public trust and confidence in the public sector and public services begins with a common understanding of what the public service actually is – the diversity and nature of the roles - and how this contributes to people's wellbeing and improves people's lives.

26. This understanding is not really something that can be legislated in the Act but comes from a dedicated and multi-pronged communication strategy and physical public sector presence that reaches into communities and provides value to people's lives. It comes from professionals, such as teachers and mental health workers, being supported with appropriate resources and having the time and space to meaningfully work with members of the public. It comes from changing the language from “customer” or “client” to “citizen” or “child” or “person”. It comes from students learning not just about what government is but how to meaningfully engage with the people and processes that impact on their lives – how to make positive changes.

27. The development of Treasury's Living Standards Framework and embedding wellbeing in the Public Finance Act 1989 are important shifts in the public sector taking broader societal considerations into account.

How much detail should be included in the Act and how much should be specified elsewhere in guidance and requirements issued by the Commissioner?

28. See the comments above.

Do you agree with the way we have articulated the purpose, principles and values? Are they clear and compelling?

⁵ https://www.transparency.org/news/feature/corruption_perceptions_index_2017#table.

⁶ <http://www.ssc.govt.nz/trust-remains-high-public-services>.

29. The proposed PVP have a number of issues. For example:

- **Impartial:** We agree with the NZCTU's points in their submission that this particular value has caused confusion / not been respected by senior leaders or Ministers in the past, and has differing levels of applicability depending on the area of the public service that someone has been employed or engaged in. The issue of impartiality should be ring-fenced for the discharge of their duties but there is not enough stress put on the rights of a person to freedom of thought and action in their private life. This includes the right to provide a professional opinion (in the whistle-blowing sense, to speak out against the actions of their own organisation and / or the impact of proposed or actual government policy – such as teachers and PPTA working to develop the IES policy into a workable solution for students, teachers and the broader school community or doctors speaking out about the impact of resourcing and shift schedules at a particular hospital). Impartiality also seems to imply that there will be equal application when it may be appropriate to engage special measures or affirmative action to promote the interests of a marginalised group and ensure equity in outcomes.
- **Accountable:** Accountability must be recognised as flowing both ways within an organisation. Education researchers use the concept of 'intelligent, mutual accountability' or often replace the word altogether with 'responsibility' which carries much of this broader meaning. A person should of course take responsibility for the actions that are actually within their control but there needs to be a change in language to reflect a collaborative working environment. Also note the comments below about health, workload, training and resources, which may impact on a person being able to perform their functions.
- **Integrity:** In the description in the discussion document, integrity is defined to include competence in the discharge of one's duties. It should be noted that incompetence is not always a deliberate action but may occur in the context of health problems for an individual or an absence of appropriate training, resourcing, or emergency situations that require an immediate response. As noted above, workload for members of the public service (including teachers) is high and needs to be addressed as a priority health and safety problem and to ensure the high quality of services going forward.
- **Respectful:** High empathy and respect are important values. There needs to be a note that people should act in a way where they are / feel safe, as some roles in the public service involve confrontational policies and practices. No-one should feel that they have to tolerate bullying or abuse and this should be explicit. It should be elaborated what "the best outcomes possible" are – tying it to a general purpose.

30. As a general point, the drafting of the discussion document appear to be struggling between reconciling the differences between a traditional civil-service to Minister policy advice function with those public service functions that may have a more outward facing public service delivery element. As noted by the NZCTU, the relevance of a value or principle that ties the former in constitutional conventions and protecting free and frank advice are less applicable to service delivery workers in the public payroll.

31. The values outlined above need to be part of a two-way relationship, with any agreed values also being addressed by MPs and Ministers – in particular, integrity and respect. Beyond the oath of allegiance that is sworn on entering Parliament and the Executive Council, are Ministers and MPs subject to a code of conduct? This concept should be sent out for public consultation alongside these proposed reforms.
32. Like the NZCTU, we support the recommendation from the PSA for a Charter of Rights outlining civil and political rights for public service workers.

Are there any concepts you think are missing? What are they, and why do you think they are important?

33. As noted above, we think that there needs to be a proper consultation period to enable a genuine conversation to develop PVP. Some key concepts appear to be missing from the proposed PVP; for example:
- We agree with the NZCTU that Te Tiriti needs to be added as a value and / or principles. This is a corner-stone of our constitutional arrangements and the public service (under the broader banner of the Crown) needs to be acting consistently and respectfully to uphold the principles of the Treaty;
 - Given that one of the key purposes of these proposed reforms is to develop a collective identity and better ways of the public service working together, it is strange that the concepts of collective action and collaboration appear to be missing altogether;
 - Max Rashbrooke's (2018) suggestions of government "for the public good" should be considered alongside the new concepts of wellbeing to be incorporated in the Treasury's Living Standards Framework.
 - The public service also has an important function in giving effect to legal obligations under human rights legislation and international treaty obligations. This should be explicit in the Act / within this framework.

Do you see any constitutional implications arising from these proposals and, if so, are there any risks or costs that we need to be aware of?

34. As above, it is unclear why the Treaty, human rights legislation and international commitments were not explicitly included – this has significant constitutional implications.

Scope of the Public Service

Do you agree with the extended scope of the New Zealand Public Service proposed in this paper? Do you see any problems in how this might operate in practice?

35. The scope really depends on how the regime was going to operate in practice. Many of the entities listed for inclusion in the new definition / scope of public service, as the Human Rights Commission and the NZ Law Commission (and people working within the entities) need to be free of political interference to fulfil their statutory functions, without the pressure of following Government policy or fearing critique / investigation of the Government.

36. We agree that schools should be excluded. Teachers' professional responsibility lies most strongly with their students, school and the communities that they serve. Schools administrative and governance structures are under review currently with the review of Tomorrow's Schools, and we believe that is the correct process to be used for considering the statutory role and position of schools.

37. It would be useful to know where independent statutory bodies, such as the Education Council, sit within this framework. The SSC should be explicit about exempting this body.

What entities do you think should be covered by the purpose, principles and values in the Act?

38. Government departments.

What is your view on the inclusion of Independent Crown Entities in the scope of the New Zealand Public Service?

39. As above.

Crown – Māori Relationship

Does this proposal provide for an appropriate contemporary expression of the Public Service's support for the Crown/Māori relationship? Why or why not?

40. As noted above, the Treaty is a cornerstone of our constitutional arrangements, and giving effect to the principles of the Treaty of Waitangi is a key concept that should be incorporated within the PVP.

41. We agree with the points that the NZCTU have made in their submission on this point, in consultation with the Runanga, in particular:

- We are enthusiastic to see recognition of Te Tiriti o Waitangi and the obligations of public services to be responsive to the needs and aspirations of Māori.
- More work is needed to better understand why these needs are not being met;
- The neo-liberal reforms in the 1980s and 1990s had a disproportionate impact on the industries where Māori were predominantly working, the communities that they were predominantly living in and the welfare safety net that was supposed to be there to protect all citizens that were vulnerable and needed support.

Are there any aspects you think are missing? What are they, and why do you think they are important?

42. Further thought should also be given to a stand-alone clause to recognise and promote human rights legislation and international commitments, as part of our constitutional framework.

Our People

What should the Act say about diversity and inclusion?

43. PPTA strongly believes that appointments should be made on the basis of merit and that a person should not be disadvantaged or discriminated against because of any of the prohibited grounds in the New Zealand Human Rights Act 1993 and New Zealand Bill of Rights Act 1990. Evidence shows that diversity within an organisation and in leadership roles is an asset for an organisation, and in the public service space this extends to better understanding and response to the needs of the public and to identify opportunities and risks.
44. In principle, we agree with the proposal for the State Services Commissioner to have a positive statutory duty to promote diversity and inclusion across the public sector and that chief executives should also have an active duty to promote diversity and inclusion within their individual departments. Such an approach is consistent with the Good Employer obligations in the Act and New Zealand's commitments under international treaties, such as the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of Persons with Disabilities.
45. But more than this, there has to be a better understanding of where the barriers are for people entering and remaining in the public service workforce, and how public service employers should work to accommodate these needs or eliminate any barriers. This should be done as part of a tripartite working group with unions, in the same way as the Gender Pay Principles were developed.
46. This group could ask for advice from the New Zealand Human Rights Commission, which has a special mandate in relation to EEO and eliminating discrimination and NGOs, such as the National Council of Women, which have a strategic objective in promoting a Gender Equal NZ. This work-stream should be resourced for on-going implementation. Such an approach is consistent with the United Nations Sustainable Development Goals, such as SDG17 - partnerships (with civil society) to meet the goals and New Zealand's ILO obligations.
47. The State Services Commission and Chief Executives should be required to report back annually on how they are meeting these Diversity and Inclusion obligations and any targets set by the Minister.
48. We agree with the NZCTU that:
- “to address the issues relating to loss of capability and capacity there must be investment in people, lifting of skills of all and development of the workforce and workplace practices based on fairness and respect in a high trust environment that values participation, diversity and flexibility and healthy, safe and sustainable work.... We recommend a stocktake by the SSC of how the Good Employer obligations are being implemented.”
49. When the EEO provisions were first introduced in 1988, officials from the State Services Commission advised PPTA that the Ministry of Education would have a supervisory role

with regard to these provisions. However, the Ministry has been noticeably absent from this supervisory process. As a result, implementation and understanding of the Good Employer and EEO provisions in the Act and collective agreements is mixed across schools and the Ministry. Despite this, PPTA has promoted the EEO Good Employer provisions including providing guidance to schools and PTPA members, and worked with the New Zealand School Trustees' Association to publish *Guidelines to assist Boards of Trustees to meet their Good Employer Obligations to Māori*⁷.

50. It may be appropriate for the new diversity and inclusion requirements to apply to schools, like the current Good Employer and EEO obligations in the Act, provided that the PPTA is part of the tripartite working group, and implementation and execution of the EEO, Good Employer and these new provisions is strengthened. There needs to be on-going resourcing and support from Government for schools for this purpose.

How can the Act help ensure that workplaces are diverse and inclusive?

51. See above.

Do you agree that the legislation should enable the establishment of common terms and conditions for functions and professions across the Public Service? Why, or why not?

52. It depends on how the public service is defined and the purpose of the common terms and conditions.

53. The discussion document as written appears to be aiming to establish common terms and conditions for the purpose of driving down labour standards and increasing competition in the context of a projected ageing workforce and demand for highly skilled workers. This is an odd approach for a Labour-led Government.

54. We would support terms and conditions that strengthen and improve conditions for workers, such as creating an entitlement to paid partner's leave on the birth or adoption of a child, or agreed measures that are proven to address the gender pay gap within organisations. All of these conditions would need to be agreed to by the relevant unions. There should not be any weakening of existing terms and conditions of employment.

55. Further tri-partite work would need to be undertaken to establish whether it is appropriate for any common terms and conditions to be included within the collective agreements for teachers. PPTA would need to be at the table for these discussions.

Do you agree that the Commissioner should have the proposed level of oversight over pay equity negotiations?

56. We agree with the NZCTU that the tripartite model generally needs to be used for pay equity negotiations. It is important to emphasise that pay equity is a legal right, not at the whim of the SSC Commissioner. The education sector should be separate unless otherwise agreed with the relevant union.

⁷ <https://www.ppta.org.nz/dmsdocument/26>.

What could be the costs or risks in greater cross-Public Service coordination on workforce issues?

57. It depends on the level of coordination and the nature of the common terms and conditions. If there is any deterioration or lower conditions imposed then there is a significant risk that workers in hard to staff and challenging work environments will leave – higher turnover and harder to fill vacancies. We are already experiencing the impact of shortages in the secondary teaching profession as remuneration has declined relative to comparable professions and the median wage amidst higher workload and regulatory requirements.
58. The system also needs to be developed in a way that recognises the different and unique aspects of different professions so that there is the opportunity to have specific terms and conditions that match. For example, the need for school teachers to have non-contact time to recognise the work and time required to prepare for lessons and meet the other aspects of their job.

What else could promote the aim of a diverse, flexible, and effective workforce?

59. Various working groups have identified a range of difficulties in the past that have still not been actioned by the Ministry of Education as the employer for teachers. For example, the Pay and Employment Equity review – published in 2008⁸ – went for several years, identified pay and employment equity issues in education then was dropped as a priority (and the report was not even carried over to the Ministry's new website) when the Government changed. The report contains a number of agreed recommendations that should be implemented alongside the recently agreed gender pay principles.
60. In the schooling sector, the education unions and NZSTA should be funded to deliver joint workshops for schools on how to develop and implement diversity and inclusion, good employer and EEO policies within schools.

Organisational Arrangements

Do you agree that we need more options for departments to organise in ways that improve the outcomes and services for New Zealanders? Why, or why not?

61. We support a break-down of silos and more collaboration within the public service, provided that the core functions of departments are not lost or forgotten about. PPTA has long been promoting a more comprehensive and wrap-around approach for the social problems that students and their families experience. See, for example, the following PPTA Annual Conference paper: *Equipping schools to fight poverty: a community hub approach (2013)*⁹. Such an approach to social problems requires collaboration across Government departments and funding across the different departmental budget lines.

Do you agree that Public Service Executive Boards will help the Public Service deliver better services and outcomes? Are there any risks we should consider?

⁸ <https://www.nzei.org.nz/documents/MYNZEI/Resources/SS-Reports/PaEE-Full%20Report.pdf>.

⁹ <https://www.ppta.org.nz/dmsdocument/337>.

62. Better coordination at the executive level should help to set a coordinated approach to coordination at lower levels.

What do you think about formal collective accountability of chief executives on Executive Boards? What are the benefits and risks of this approach?

63. The risks are that people become accountable for decisions that are outside their control or expertise or that no one is clearly accountable. However, this joint responsibility could be managed - as we have seen in other contexts, such as the health and safety legislation. We would need to see the details before making any further comment.

Do you agree that a Joint-venture model would help the Public Service deliver better services and outcomes?

Do you think that one of the three potential Joint-venture models would work better than the others, and if so why?

What are the benefits or risks of the Public Service using Joint-ventures?

What checks and balances are needed in the process of establishing joint ventures?

64. We agree with the NZCTU submission that it is interesting to see the joint venture model being used in the family violence space and that it will be important to evaluate the effectiveness of this new organisational model to capture lessons learnt and assess the desirability of expansion (with or without amendments).

65. We would expect a proper consultation period before any changes were implemented that impact on schools or the Ministry of Education.

Do you agree with the proposal for an Executive Agency model? Why, or why not?

66. See the comments on new organisational models above.

67. In theory, greater coordination and shared funding should help to better address social problems that do not sit neatly within departmental silos and single budget lines. Efficiencies are also to be gained in joint delivery and procurement – see comments above on the current inefficiencies within the Tomorrow's Schools governance model.

68. It should not be used as an arbitrary excuse for reducing funding for public services. While there may be efficiency gains from this model, it is clear that New Zealand Core Crown expenditure is already relatively low compared to overseas comparators, coming in below all of Western and Northern Europe, and comparable to the USA.

69. Within this model it needs to remain clear as to who is responsible for what type of decisions.

70. We would expect a proper consultation period before any changes were implemented that impact on schools or the Ministry of Education.

Do you agree with the proposal for a Statutory Officer model? What would the benefits or risks of this model be?

71. The obvious risk is that a person delegated all the responsibility is then not given sufficient funding or resourcing by the chief executive to actually deliver it effectively in

the public good. We would expect a proper consultation period before any changes were implemented that impact on schools or the Ministry of Education.

When considering all of the proposals in this chapter, do you think they will achieve the right balance of delivering better services and outcomes while retaining clarity of accountability?

72. Greater coordination of resources, policy, leadership and spending is just one aspect of improving how public services can be more effectively delivered.

73. Ultimately, there needs to be a massive injection of resourcing (and the corresponding tax revenue) to increase the capacity and reduce the workload of individual public servants. In schools, for example, this means smaller class sizes, better terms and conditions for the workforce, streamlining paper work, and increasing the operating budget – taking into account equity in schools.

When considering all of the proposals in this chapter, are there any specific changes that would improve them?

74. See above.

What do you think the consequences of the proposals will be, e.g. for public servants, citizens and other legislation?

75. Any changes will need to be clearly communicated, with an opportunity for genuine consultation, so that people are clear about where services are and the accountability lines. We would not want to see the changes result in an increase of insecure work or loss of revenue for services.

Do you agree with the potential implications for the Public Finance Act? What other changes might be considered to the Public Finance Act?

76. We note that the NZCTU has provided a comprehensive submission on the issue of embedding wellness in the Public Finance Act 1989. We agree with their analysis on this issue.

Are there options for changing the way services are delivered that we have missed?

77. A new method of public service delivery is explored in Max Rashbrooke's recent publication *Government for the Public Good*. His book explores the capacity and effectiveness of government action and proposes a new form of "liquid government". In chapter 13 of this book, he outlines a range of ways that citizens can be more directly involved in the development of policy and public services – from "citizens' assemblies or juries" to "mini publics" to the larger Brazilian model of "national conferences on policy" to Taiwan's online vTaiwan democracy model.

78. Rashbrooke advises that:

- "Participation often looks unpleasant to the less committed. People expect lots of shouting, a room full of difficult characters, and an immense drain on their energy. The reality of liquid government is rather different. Its forums stress the importance of listening as well as speaking, of turn-taking and respectful

argument. Firm facilitation is crucial. Deliberation is sometimes claimed to make a group more extreme, as moderate members are easily swayed by confident hardliners. But research shows that this is true only in unstructured groups: well-facilitated discussion, in which all voices are brought forward, makes people *less* extreme, as has been demonstrated, for instance, in Finnish deliberation on immigration issues.”¹⁰

- “Liquid government is sometimes criticised for privileging a hyper-rational discussion that comes most naturally to the well-educated. But this misunderstands modern deliberation, where storytelling, personal narrative and other forms of communication are increasingly valued.”¹¹
- “Liquid government is sometimes depicted as slow and cumbersome, and of course it does take more time initially than conventional methods. But better the right decision slowly than the wrong decision quickly. Front-loading decisions can, the evidence suggests, save time later, leading to faster response time overall.”¹²
- “Liquid government is not about transparency in the sense of printing volumes of information that the public may never read. It aims to amplify the voice of citizens – what they put into government, rather than what government puts out to them – in ways that have shown to increase confidence in policies and politicians.”¹³

79. Despite the significant challenges within the Tomorrow’s School’s model, community involvement has been a positive outcome. Rashbrooke’s work suggests that there are a range of ways to retain this level of democratic participation in public services, such as schools, while also reforming the governance structure to ensure that there are protections in place to ensure equity, efficiencies in administration and informed discussion. As Tomorrow’s Schools has demonstrated, issues that greater local participation have given rise to are the nature and scale of local communities, and their capacity to make important decisions, and the detrimental impact on the system as a whole of many local decisions being made in a disconnected way. Addressing this in education, this could mean improving outcomes for the 20% of schools within the system that are currently failing. The PPTA Annual Conference paper *The Tomorrow’s Schools Review* (2018) provides more specific information and a list of additional principles and outcomes for the review.¹⁴

Leadership

***Do you agree with the proposal for a Senior Leaders Service in the Public Service?
What are the benefits, costs, and risks of our proposals for the SLS?***

80. It depends on how this was supported and implemented.

81. If done well, the benefits could be that there is more collaboration on cross-sector service delivery, and more opportunities to nurture and develop a diverse and inclusive

¹⁰ Rashbrooke, M. (2018) *Government for the Public Good: The Surprising Science of Large-Scale Collective Action* (Bridget Williams Books, Wellington), pp. 270-271.

¹¹ Ibid, pg. 271

¹² Ibid, pg. 272.

¹³ Ibid.

¹⁴ <https://www.ppta.org.nz/dmsdocument/721>.

senior leadership group in the public sector – consistent with other areas of the proposed reforms. The risk is that subject specialism could be lost if there is only one route available into senior leadership positions. We would need to see more detail of any final proposal.

How can we ensure that the Senior Leaders Service is diverse and inclusive?

82. Diversity and inclusion are particularly important to incorporate in the leadership levels of the public service as New Zealand is a bicultural country and multicultural society and we have unmet needs and inequality to address. The public service leadership needs to be responsive to the needs of the community it serves and diversity within leadership structures helps to reinforce positive role models, in addition to the better ability of the public service to identify and respond to risks.

83. A suite of measures are needed to make this change. For example, with gender equality:

- Structural mechanisms: Quotas are shown to work well to promote gender equality and ensure merit appointments in leadership and governance positions in other countries and organisations;
- Societal mechanisms: Such as paid partner’s leave, can help to reduce the “motherhood pay gap”¹⁵ we experience in New Zealand. New Zealand can learn a lot from Iceland – another developed, small island nation – which has dedicated paid partner’s leave.
- Forming a genuine partnership with NGOs, such as the National Council of Women, to implement their Gender Equal NZ strategy, as per their White paper¹⁶;
- Working with unions in a tripartite manner to develop leadership training and professional development, and to help ensure that EEO, Good Employer and the proposed diversity and inclusion causes are understood and implemented effectively in workplaces.

Do you agree with the proposal to include an overarching reference to the collective responsibility and accountability of chief executives in the Act?

How do you think collective responsibility and accountability of chief executives could best be achieved? Are there any costs or risks that we should consider?

84. See comments above under the questions on Executive Boards.

Serving Successive Governments

Should a provision for a Long-term Insight Briefing be provided for in the legislation?

85. Yes. In the absence of an upper House and other checks and balances in the 3 year electoral cycle, it is important for the public service to be providing information for the public and the political parties about the policies, issues, and needs across sector with a

¹⁵ <https://www.stats.govt.nz/assets/Reports/Effect-of-motherhood-on-pay-methodology-and-full-results/effect-of-motherhood-on-pay-methodology-full-results.pdf>.

¹⁶ https://www.ncwnz.org.nz/wp-content/uploads/2015/11/EnablingWomensPotential_OnlineViewing-1.pdf.

longer-term vision. This is particularly important for large scale infrastructure projects or longer-term social and economic policies.

What do you think the Long-term Insight Briefings should contain?

86. We would like more information about countries that develop these plans overseas and the types of material that is within them.

Which length of time should the Long-term Insights Briefings cover?

87. Five, ten and twenty years. Further thought should be given to how the dates along with local government planning requirements.

Who should develop a Long-term Insights Briefing?

88. It depends on the content.

Are there any other ways for the Public Service to support successive governments?

89. One option that could be considered is the ability for opposition political parties to have a small number of seconded public servants to assist with policy development. Incoming governments often arrive with lofty goals but little concrete policy that is ready to implement, leading to some chaotic and ill-conceived proposals that looked good from the vantage of opposition but less so from the Beehive. The recent "Protecting the Title of Teacher" Bill from New Zealand First is an example of this.

A New Public Service Act

Do you agree or disagree with the problem definition and focus of the legislative change?

90. We would like further information about the types of operational provisions that will be omitted from the Act as it is not clear on reading the discussion document.

Do you think that we should amend the State Sector Act or develop a new Act? What do you see as the benefits, costs and risks of this proposal?

91. The State Sector competitive model has had its day and needs to be repealed and replaced with a new public sector Act. As noted earlier, this should be developed with a decent consultation process, as per the Tomorrow's Schools review. PPTA agrees with the proposed title of the Act, i.e. the Aotearoa New Zealand Public Service Act.

Do you agree with the proposed purpose of the new Act? What other ideas do you have for defining the purpose of a new Act?

92. We have a question about the proposed purpose of the Act as "entrenching" the principles that underpin the NZ public service as an institution can have a particular legal meaning, whereby there needs to be a higher majority (such as 2/3 of Parliament) to amend the clause as we see in some of our electoral legislation. Is that the intention here?