

Finding the balance

New Zealand has always prided itself on its impartial, trustworthy public service. Increasingly, however, there's a feeling that this impartiality and trustworthiness are being eroded, and that the balance between serving the interests of the minister of the day and serving the public interest is being lost. Editor JOHN O'LEARY looks into the matter.

It's a select club: the handful of nations that tend, year after year, to come top of Transparency International's list of countries whose public administrations are perceived as least corrupt. Finland and Denmark are always there, and also New Zealand (last year, New Zealand came in second).

One of the reasons New Zealand scores so well is its tradition of good government. We tend to take the impartiality and trustworthiness of the public service for granted, but acquaintance with the bureaucracy of one of the countries that figure in the lower half of Transparency International's list will quickly disabuse a tourist or travelling executive of the notion that this is the norm worldwide. It's not just a question of bribes; rather, it's a matter of a whole government culture which sees officials beholden to the wishes of powerful politicians and business interests, often to the detriment of the local population.

New Zealand did not always have the kind of permanent, professional public service it enjoys now. In the 19th century for example, individual ministers had the power to appoint public servants, unlike today, where appointments are made by the department. Part-time or temporary public service jobs, moreover, could be awarded by politicians in recognition of services rendered or anticipated, jobs which could then become semi-permanent. Richard Seddon, who served as prime minister from 1893 to his death in 1906, in particular, was notorious for the "placemen" he inserted into the bureaucracy: a departmental head who had the temerity to ask "King Dick" what use a rather ignorant protégé from the West Coast might be was apparently told to "Learn him!" It was a system open to abuse, it was increasingly agreed, and in need of reform.

Change

Things changed with the passage of the Public Service Act in 1912. This was designed to foster a permanent, professional public service that would manage the country according to efficient, "scientific" principles. Out went the placemen and part-time "jobs for the boys". In came promotion on merit, security of tenure and a system of graded divisions,

all overseen by a Public Service Commissioner who was responsible to parliament. It wasn't quite the public service of today (for a start, it employed very few women) but it was a giant step towards it, establishing as it did a unified, politically neutral bureaucracy. It was a public service that served the country well through a world war, a depression, another world war and the post-war boom that followed. The men who formed it were remarkably uncorrupt and had a genuine ethos of serving the public.

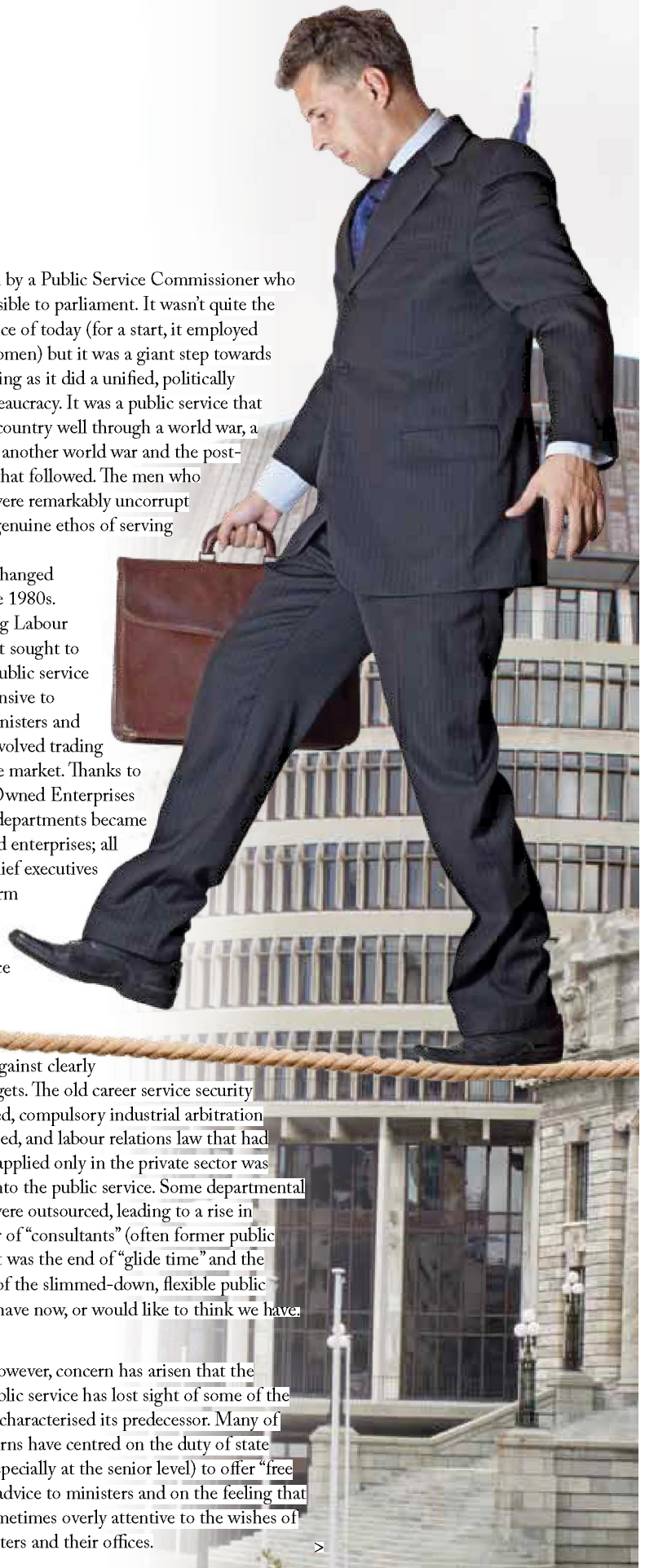
Things changed again in the 1980s. A reforming Labour government sought to make the public service more responsive to citizens, ministers and (when it involved trading entities) the market. Thanks to the State-Owned Enterprises Act, some departments became state-owned enterprises; all acquired chief executives on fixed-term contracts whose performance would be

measured against clearly defined targets. The old career service security was removed, compulsory industrial arbitration was abolished, and labour relations law that had previously applied only in the private sector was imported into the public service. Some departmental functions were outsourced, leading to a rise in the number of "consultants" (often former public servants). It was the end of "glide time" and the beginning of the slimmed-down, flexible public service we have now, or would like to think we have.

Concern

Recently, however, concern has arisen that the modern public service has lost sight of some of the values that characterised its predecessor. Many of these concerns have centred on the duty of state servants (especially at the senior level) to offer "free and frank" advice to ministers and on the feeling that they are sometimes overly attentive to the wishes of these ministers and their offices.

>



At a 2013 seminar in Wellington organised by IPANZ and Victoria University of Wellington's IGPS, a public sector worker complained that the quality of advice was being compromised by the desire to please ministers. Policy analysis, the worker claimed, was increasingly being "retrofitted" around what ministers had decided, often in the absence of good evidence, with the result that ministries were now producing "policy-based evidence" rather than "evidence-based policy."¹

Last year, a widely-reported episode involving one of the country's security agencies crystallised these concerns, with one journalist opining that the agency in question had become "a political arm of the party in power."² Another journalist commented more broadly, warning that thanks to a "no surprises" rule that was being stretched and distorted, public servants were on a "slippery incline" that was taking them from political neutrality to friendship to "unacceptable political partisanship."³

The impartial and trustworthy public service, which has served New Zealand so well in the past, and helped it to be seen as having one of the least corrupt public administrations in the world, seems, if you believe these commentators, to be in peril. But how real, in fact, is this danger? Have public servants really forgotten how to say "No, Minister"?

Perception

According to Beith Atkinson, a Departmental Officer at the Corrections Department and author of the *Integrity Talking Points* blog, the answer is no, not really. "If the problem exists," says Atkinson, "I doubt it's a large one."

"It is true that there's a notion out there that it's an issue these days, but I think we're dealing with perception rather than reality. Are things really worse now than they were? I doubt it."

"We need to be careful about idealising the past and positing some kind of lost golden age of impartiality and trustworthiness, which implies a meritocracy of mandarins. Fifty years ago people knew a lot less about the operations of government – the Official Secrets Act ensured that. Now, we know much more and tend to be much more critical."

There is always a tension, says Atkinson, between the duty which public servants have to give effect to government policy and their duty to serve the



Beith Atkinson,
Departmental
Officer, Department
of Corrections and
author of *Integrity
Talking Points* blog

"If there is the odd problem... it can probably be addressed by schooling certain public servants in the constitutional niceties of giving 'free and frank' advice."

public interest. "Certainly public servants have to think about the latter. But at the same time their duty is to implement the policy of democratically elected governments."

The episode involving one of the country's security agencies was, thinks Atkinson, an uncharacteristic exception rather than an indication of some deep-seated malaise. "Generally, it seems to me, the public service in New Zealand is in good stead. While there have been some cuts in staff numbers, funding has not been slashed as it has been in the UK, and programmes such as Better Public Services look likely to go a substantial way towards a more effective, customer-focused state service."

"If there is the odd problem of the kind you've mentioned, it can probably be addressed by schooling certain public servants in the constitutional niceties of giving free and frank advice."

Atkinson does, however, believe there is a need for more of a focus on integrity in the public service. "The State Services Commissioner issued a Code of Conduct in 2007 which grouped 18 standards around the four values that can be expected of public servants – fairness, impartiality, responsibility and trustworthiness. The expectation of impartiality covers what we've been talking about: that public servants should maintain political neutrality and provide robust and unbiased advice while respecting the authority of the government of the day."

"What I'd like to see is these values being projected more strongly – I'd like to see greater emphasis on those 18 standards. They embody the ethos of good government; they are the prescription for the ethical state servant. At the moment, I don't think this is being done enough."

Pendulum

Marie Shroff, former Privacy Commissioner and long-serving Cabinet Secretary, does think there is a growing problem. "Of course the public service has to work hard at serving the government of the day; but the preserving of an impartial, neutral public service which is fit for purpose to serve a future government of any stripe is the real test."

"The reforms of the 1980s moved the public service from an overly input driven, bureaucratic mind-set towards an output-oriented culture, rightly responsive to the priorities of the government of the day."



"But you could say the pendulum has now swung too far in one direction; it needs to swing back to the centre. There needs to be a careful balance struck between serving the interests of the minister of the day and serving the public interest."

Part of the problem, says Shroff, is that there has been a loss of institutional knowledge in the public service. "In some instances highly competent public servants have left the service. This is damaging, because it's such experienced senior public servants, with a longer time perspective, who know how to serve ministers energetically, but without crossing the political line."

Another (cyclical) risk to impartiality arises when governments enjoy long stretches in power. "Public servants can become habituated to working with one government, one set of policy directions and often one minister. They begin to identify with the government and the way it does things; it's correspondingly harder to keep a good distance between the political interest and the wider public interest in free and frank advice."

A third major pressure, notes Shroff, is the relentless media scrutiny and "gotcha" news reporting modern governments exist under. "Ministers and occasionally public servants are under an intense media spotlight, in a way they weren't a generation ago. It is all too easy to blur the impartiality line when actions or policies



Marie Shroff, former Privacy Commissioner

"There needs to be a careful balance struck between serving the interests of the minister of the day and serving the public interest."

come under strong media and political attack."

Difficult as it can be, "speaking truth to power" is often required, says Shroff. "A public servant who fails to tell the minister, politely and intelligently, of the implications of a defective policy idea isn't doing the country – or their minister – any favours. It's the job of public servants to help ministers make good quality, publicly defensible decisions, with full knowledge of the options and consequences. Offering free and frank advice is to everyone's benefit, ultimately, including the minister's."

Fortunately, observes Shroff, New Zealand has

an Official Information Act, which means the workings of government can be inspected in a way that is true of few other countries. "I know some public servants feel that the OIA can inhibit the giving of free and frank advice, but that's an opinion I've never shared. The OIA shines a light into how government works; it lays bare what advice was given, what decisions were taken and so on. It's a powerful agent in favour of good quality decision-making – how can that be a bad thing?" *[For more about the OIA and its use/abuse, see article on page 18]*

>

2015 off to a Flying Start!

2015 has had a flying start right from day one. It has never been a better time to be looking to advance your career in the Public Sector. A number of strategic initiatives are now in full flight so keep an eye out for some great opportunities:

Policy Managers, Principal and Senior Policy Analysts – The high demand for top quality policy professionals continues which is good news if you are thinking about the next step in your career? To register your interest please contact **Kirsty Bidwell** at kirsty.bidwell@h2r.co.nz

Contractors – Heavy on-going demand for Policy Analysts at all levels, Project Managers and Change Managers. **Georgina** and **Katerina Makarios** want to hear from you if you are coming available in the next few weeks. Contact georgina.makarios@h2r.co.nz or katerina.makarios@h2r.co.nz

Finance and Accounting – We have a range of permanent and contract public sector finance and accounting roles. **Paul Hodder** has multiple permanent and contract opportunities in the finance space. Contact paul.hodder@h2r.co.nz



Kirsty Bidwell



Katerina Makarios



Georgina Makarios



Paul Hodder

www.H2R.co.nz
AUCKLAND - WELLINGTON - MELBOURNE

For more details, visit www.H2R.co.nz or call us on 04 499 9471.



Doing things the Danish way

New Zealand came second in Transparency International's 2014 list of countries whose public administrations are perceived as least corrupt. But what about the country that came first – Denmark? Does it have any lessons to teach us when it comes to preserving the impartiality and trustworthiness of the public service?

Denmark has always been ahead of the pack when it comes to open and transparent government. It was one of the first countries in the world to establish an ombudsman's office, in 1955, an institution that has since been replicated across the world (New Zealand set up its own ombudsman's office in 1962). The Danish ombudsman's office is an active presence in the country's government and society and is not afraid to take on high-profile cases involving abuse of power by senior government officials and politicians.

The question of whether the country's public service was losing its impartiality and trustworthiness came to the attention of the Danish ombudsman's office in 2013. This followed severe criticism from the media and the general public because of a number of controversial cases involving key government departments which seemed to suggest that departments' daily routine had become subject to spin tactics and that political savvy had become more important than professional expertise and objectivity.

The Danish Ombudsman addressed these concerns in his *2013 Annual Report*. He found that, fundamentally, the country's public service remained a good one, with intact public service values. He did, however, ask whether the verbalisation of basic public administration values has in recent years been overshadowed by media

strategies, structural reforms, streamlining projects and a demand for quick answers to difficult questions. "Maybe it has been more in vogue to talk about what needs to be reformed than what needs to be preserved," he observed (see *2013 Annual Report of Danish Parliamentary Ombudsman*, p. 19).

The view that the Danish public service is basically sound is supported by Dr Karl Lofgren of Victoria University of Wellington's School of Government, who lived for many years in Denmark.

"Apart from the very strong legalist and rule-by-law tradition, I would say that public service (and public sector) work in Denmark is based on a pretty consistent and socialised set of public sector values including professionalism, transparency and mutual trust between management and staff. Although not codified as a set of ethical guidelines, there is evidence that managers in particular adhere to these values."

"Trust seems to be a recurring theme, and that's something I can personally recognise in terms of work relationships. In Denmark it goes without saying that you trust your manager, your colleagues and subordinates. The sector doesn't need all sorts of integrity systems as most (naturally not all) public sector workers adhere to the values."

"I am not sure that it will stay like this forever, but so far these values seem to have been resilient to change."

So it seems that Denmark is rather like New Zealand in this respect. Both countries enjoy excellent public administrations, but there exists a similar, continuing discussion on how to best preserve the impartiality and trustworthiness of their respective public services. ■



© Avmedved | Dreamstime.com - Christiansborg Castle

Pictured above is Christiansborg Castle and the equestrian statue of King Christian IX in the center of Copenhagen, Denmark. Christiansborg Palace is the seat of the Danish Parliament (Folketinget), the Prime Minister's Office and the Supreme Court.