

THE SPIRIT OF SERVICE



Peter Hughes

Recently, Peter Hughes, State Services Commissioner, gave the Paterson Oration in Sydney, where he spoke about matters such as political neutrality and free and frank advice. Here is an excerpt of his speech.

We've started talking about the spirit of service in New Zealand. I say, let's do it.

Let me talk a little bit, now, about the public service and its constitutional role, because this is part of it. I'm not one of those who believes that the public service is simply the delivery arm of the executive branch of Government. I am somebody who believes the public service is a special part of our constitutional democracy. I often refer to the public service as a constitutional artefact. For me, it's part of the constitutional architecture that guarantees our form of government and its legitimacy. For me, there are four things that underpin the public service in that constitutional role. I call them the "Foundational Pillars" because, pretty much, everything else proceeds from that. There are things that are really precious and, I think, we need to pay some attention to.

- The first is political neutrality.
- The second is free, frank and fearless advice.
- The third is merit appointments. We all take that for granted, but, it's really important.
- The fourth is open Government.

I believe it is the responsibility of each generation of public service leadership, to nurture and protect these. I'll talk about three of them just very briefly.

Political neutrality is, I think, the absolute bottom line to assuring an enduring career public service in the Westminster tradition. But, it's something that is under pressure in various ways in most jurisdictions. So, for me, there is a line. Politicians respect public servants who go down to the line, but not over it. Politicians put themselves out there every day. There's nothing tainted about politics, in my view. Politics is democracy in action, and our politicians put themselves out there every day. But, they don't respect public servants who stay closeted in an ivory tower of neutrality or independence, who take no risks, who sit on the hill looking down on the line lobbing their advice over it, shrugging their shoulders and washing their hands of accountability, and I know that some of you here feel that about Australia as well. The public service, as a whole, must be able to garner the trust, confidence, and ultimately, the respect of successive administrations in order to do its job. The key for me, is to engage actively with the political context without becoming part of it.

It's very easy to do.

There is a line, and I say, we go down to the line but not over it. Often there are people and forces trying to pull us over the line. Every public servant in the room will know that this

is not easy stuff. Political advisors can be one of those. You have political advisors in your system, we now have them in New Zealand. They were a response to the complexity of a fast-moving political context, powered up by social media and other media. Like many other jurisdictions, political advisors have just happened; they've just arrived on the scene. They've filled a market gap.

But, it's a role that, in my view, needs to be positioned in a constitutional sense, otherwise it is a risk to us. We need political advisors to understand and own the line. We need them to understand and own the role of the public service. In New Zealand, political advisors are public servants. They work for a Government department. Before the last election, I took the opportunity to issue, using my powers as Commissioner under the Act, a Code of Conduct for political advisors. A special Code of Conduct for political advisors.

Free and frank advice, in my view, is a duty on public servants. It's a bottom-line obligation.

This was not an easy thing to do, and that's a whole other story, and probably one I'd rather tell when cameras are not present. But, anyway, we did it before the last election and we issued the code. Following the election – because we had a change of Governments – I issued further guidance for political advisors, because I wanted to be crystal clear about where the line was, and I knew that we would have a whole set of new political advisors coming in to that role with the new Government. The Code of Conduct that I issued for Ministerial staff requires them to "respect the duty of our independent State services to provide free and frank advice and to undertake their responsibilities free from inappropriate influence". It's there in the code.

In the New Zealand system, this has force of law through the employment relationship and, ultimately, I can order a public inquiry using my powers under the Act if necessary. I can do that. I could not do that without the Code. Some commentators in New Zealand – I'm sure this is the case here – say that the role of political advisor should not exist or should be curtailed in some way. With respect, I strongly disagree. That's to ignore the reality of modern politics. This is a real job, doing real work. It's important, and we cannot retreat into the past.

But, political advisors working in the right way, working with the administrators in the public service in the right way, are a

guarantee of political neutrality, more than they are a threat to it.

Let me talk a little bit about free and frank advice. Again, I want to be clear about what we mean by this. Free and frank advice, in my book, is not about the bold and fearless public servant facing down the Minister, as characterised by some people. It is not a license to be obstructive to the Government's objectives or a Minister's policy position. The intended outcome of free and frank advice, is better results and better services for our country. Not officials advancing their own agenda or looking to demonstrate fearless independence for its own sake. The convention of giving free and frank advice is designed to support Ministers to achieve their objectives.

The thing that I've learned in this last job that I've got, is that politicians and others don't always agree with you in the heat of the moment. But, if you do the right thing, they will respect you for doing that.

But, again, we need to make sure that this convention operates fit for purpose in our modern age. When I joined the public service, as you know now was a long time ago, there were no computers, no mobile phones, no emails and no text. None of that. There was one computer locked away on the third floor, and that's what they paid the benefits through. Otherwise, we had a typing pool as our means of communication. These days, the way I communicate most often with the Ministers I work with, is by text message in real time. It's fast, and sometimes it's furious. But, for some advice so significant it needs a little more formality than that around it, and it needs to be written down. It needs to be formal.

I think we need to be clear about what constitutes free and frank advice and why, and we need some rules around it. Free and frank advice, in my view, is a duty on public servants. It's a bottom-line obligation. But, we do need some rules around it. Again, in New Zealand, we've spelt out some of this in the Cabinet Manual, and we've written it into the Codes of Conduct applying to political advisors and public servants in general. I have written it into the Performance Expectations of our Chief Executives, your secretaries. We've issued

guidelines about it using my powers under the Act. These have formal force of law.

We're also developing a practice around free and frank advice, and this is being led and championed by the Head of the Policy Profession, appointed by me to do that. So, these things need to be taken care of and they need to be brought up to date in their operation in the modern age.

Open Government. There are a whole basket of things under this heading, and I've often got myself into trouble talking about this topic. The last time was in Singapore, where I found myself on the other side of the argument with the Head of the Australian Delegation there, as all of the Asian participants looked on at us arguing about this from our bottom end of the planet. Open, easy, timely access to official information is an antidote to suspicion and mistrust. And most certainly the converse is true. It's basic, in my view, to political and public service accountability. I've heard people say that open access to information will constrain Government and effective decision making. I totally disagree.

There is a phase in policy development where things do need to stay confidential, where things are flying around and floating around and moving around where it's highly dynamic, otherwise you disturb the creativity of that process. But, beyond that, when things become more settled, when things become propositions, they need to go out. They need to go out. Not just requested, but, proactively. We need to put them out before we're asked to do that. I can't speak for the politicians, but, most public servants I know, don't fear being accountable but, they do fear being treated unfairly. They do fear the media and the others in this regard. That is why we're sometimes reticent about official information and its release.

But, you can't look at this without the backdrop of strong, ethical, active, leadership from system leaders. We absolutely need to back our people to do the right thing, and we need to back them to do this right thing. The thing that I've learned in this last job that I've got, is that politicians and others don't always agree with you in the heat of the moment. But, if you do the right thing, they will respect you for doing that. Not in the moment, but, in the round. They will respect you for doing the right thing. The right thing, in my book, is always to be upfront, open and accountable.

Public Sector thanks the State Services Commissioner for his permission to reprint this portion of his speech.

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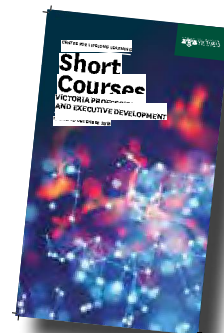
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