Ministers, Minders and Mandarins

Part 2 – more on Aotearoa/New Zealand and implications

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Intention of this section

- Focus on empirical data relating to NZ
- Less of a focus (than in the book chapter) on some of he conceptual and theoretical issues raised
- Situate our findings and the discussion in the book, in the context of the present ‘conversation’ regarding the public service ‘reset’

So what do we mean by ‘political staff’

- Employed by the Department of Internal Affairs on ‘event-based’ contracts (your Minister goes, you may go as well)
- Tendency over time for the number of ‘political’ staff to grow
- In effect, in 2018 it may be the case that the only ‘non-political’ staff in a Ministerial Office are departmental/portfoilio ‘private secretaries’ seconded to the Minister’s Office

July 13, 2018 10:35am by David Farrar

Beehive staffing levels up 13%

There's been a huge increase in the number of staff employed in Ministerial (and Under-Secretary) offices.

In 2008, there were a total of 286 staff in the last year of the Clark administration.

In 2017, there were 275 staff in the last year of the Key/English Government.

In 2018, the number of staff has grown to 312, a 13% increase.

I've divided staff up into five categories. They are:

1. Managers (Chiefs of Staff, Senior Private Secretaries)
2. Comms (Press Secretaries, media, comms staff)
3. Political (Advisors)
4. Portfolio (Portfolio Private Secretaries)
5. Admin (Private Secretaries, Exec Assistants)

So how has any category changed since 2017:

1. Political staff up 13 from 38 to 51, a 34% increase
2. Managers up 6 from 28 to 34, a 21% increase
3. Portfolio staff up 22 from 122 to 144, an 18% increase
4. Comms staff up 2 from 40 to 42, a 5% increase
5. Admin staff down 6 from 47 to 41, a 13% decrease

Part 1 – comparing some of the 2005 and 2017 results

Relations between officials and ministerial advisers (%): 2005 and 2017 responses compared

NB For 2005 n=188. For 2017 n= 417 (respondents who identified that they are presently employed within the Public Service); for all respondents, including consultants, retired, and other response categories, n=640. For economy of space we use ‘ advisers ’ rather than ‘ ministerial advisers’.

1 Relationships between advisers and public servants are generally positive

	SA	A	N	D	SD
2005	3.4	63.1	24.6	8.9	0.0
2017	3.6	42.2	42.7	11.0	0.5

2 Advisers are a legitimate feature of executive government

	SA	A	N	D	SD
2005	7.1	70.1	17.9	3.8	1.1
2017	9.5	64.1	21.7	4.0	0.7

3 Advisers are more influential now than they used to be

	SA	A	N	D	SD
2005	19	40.8	33.0	6.7	0.6
2017	10.2	27.4	55.9	6.2	0.2

4 Advisers make a positive contribution to the policy process

	SA	A	N	D	SD
2005	4.9	47.3	37.5	9.2	1.1
2017	7.9	36.9	42.9	11.0	1.2

16 Advisers add value to the policy process under coalition and/or minority government conditions

	SA	A	N	D	SD
2005	7.3	45.3	40.2	5.6	1.7
2017	3.2	37.7	51.1	7.5	0.5

17 Advisers play a positive role in facilitating relations between coalition partners

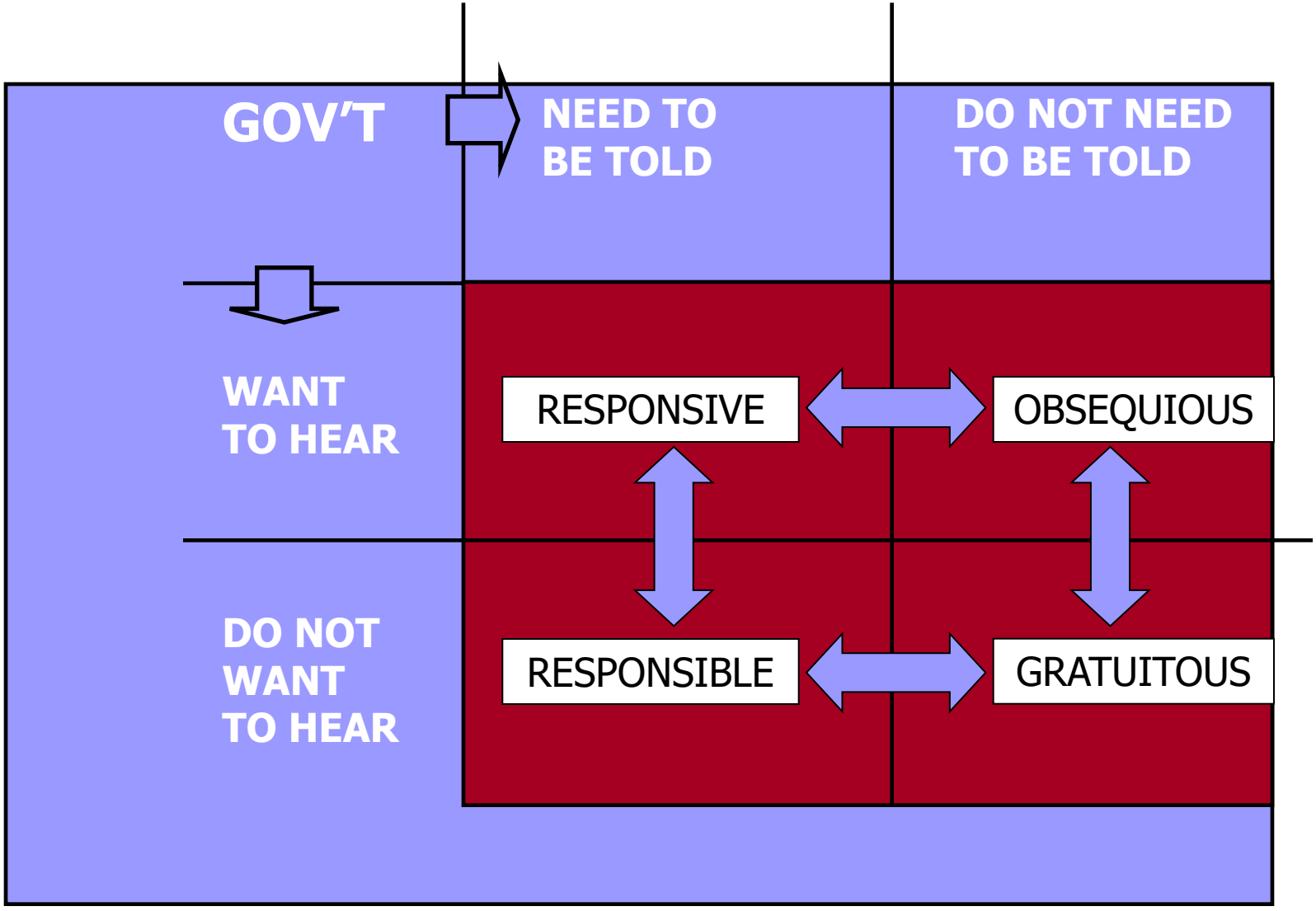
	SA	A	N	D	SD
2005	8.9	38.5	49.7	1.7	1.1
2017	4.2	33.2	57.4	4.7	0.5

18 Advisers play a positive role in facilitating relations between governments and their parliamentary support parties

	SA	A	N	D	SD
2005	5.6	37.3	53.7	2.8	0.6
2017	3.5	34.7	55.6	5.2	1.0

Administrative politicisation?

Dimensions of advice (from a speech by Australian Treasury Secretary Dr Ken Henry to his staff in 2007)



5 Advisers have too much influence in shaping the government's policy agenda

	SA	A	N	D	SD
2005	4.4	21.9	47	24	2.7
2017	6.2	27.3	49.2	16.1	1.2

6 Advisers try to keep certain items off the policy agenda

	SA	A	N	D	SD
2005	8.3	39.2	31.5	18.8	2.2
2017	9.4	38.4	41.0	9.6	1.7

7 Advisers, through their actions, constitute a risk to the political neutrality of the public service

	SA	A	N	D	SD
2005	6.1	24.0	33.5	32.4	3.9
2017	5.6	30.6	25.8	26.9	4.0

8 Advisers do not encourage free and frank advice on the full range of policy options available to Government

	SA	A	N	D	SD
2005	7.8	27.9	25.1	33.5	5.6
2017	12.2	30.5	36.7	18.0	2.6

9 Advisers have little or no bearing on officials ’ access to ministers

	SA	A	N	D	SD
2005	2.2	18.7	20.9	44.0	14.3
2017	1.5	15.1	23.3	50.1	10.0

10 Advisers sometimes exceed their delegated authority

	SA	A	N	D	SD
2005	6.8	43.8	43.8	5.0	7.0
2017	9.2	40.9	43.2	5.6	1.0

11 Advisers hinder officials' access to ministers

	SA	A	N	D	SD
2005	1.7	20.7	39.1	35.8	2.8
2017	4.3	27.6	40.7	25.6	1.8

12 Advisers prevent departmental advice from reaching ministers

	SA	A	N	D	SD
2005	2.3	13.1	35.8	43.2	5.7
2017	5.6	25.3	36.8	28.4	3.8

13 The presence of a ministerial adviser can have an impact on the receptiveness of a minister to advice from his or her officials*

	SA	A	N	D	SD
2017	14.7	54.3	25.7	4.8	0.5

* In 2005 this question was posed as Yes/No, with 55.8% responding in the affirmative, 18% in negative and the balance undecided or unsure.

21 There should be a special Code of Conduct for advisers

	SA	A	N	D	SD
2005	27.6	53.6	14.4	4.4	0.0
2017	33.2	49.7	12.5	3.5	1.1

22 A Code of Conduct for advisers should be provided for in statute

	SA	A	N	D	SD
2005	6.7	12.8	38.3	33.3	8.9
2017	7.2	24.9	35.3	28.1	4.5

23 The risks posed by ministerial advisers to the neutrality of the public service has increased over time*

	SA	A	N	D	SD
2017	5.9	33.7	46.3	12.3	1.9

* We did not ask this question in 2005.

Ministerial Advisers – costs and benefits

- Benefits
- An effective ministerial advisor can enhance public service neutrality by assisting the Minister with advice and plans base on partisan political considerations. The public service can focus on non-partisan advice and policy implementation, and by integrating political considerations into workable solutions. The two streams of advice are needed to ensure the views of the electorate are integrated with the advice of experts.
- Costs
- Ministers are welcome to have political advisors who play a minor role in *separately* providing politically oriented advice. The problem is when they act as an intermediary between the Minister and public servants, who are trying to provide free, frank and politically neutral policy advice. They frequently filter what policy advice goes to the Minister, actively argue against policy advice in officials' meetings and work hard to influence the topics and content of advice. Those behaviours would be less problematic if ministries' senior management fought to uphold the Westminster model of neutral policy advice - but these days, they seem to understand their role as providing politically oriented advice to implement the already-chosen policies of the Government of the day. This means they seek the approval of political advisors, seek their input, etc, in order to please the Minister.

“Houston, we have a Code….”

- There is now a Code of Conduct in place for Ministerial Advisors
- Earlier attempts by former State Services Commissioners failed

One attempt

STATE SERVICES COMMISSION
Te Komihana O Ngā Tari Kāwanatanga

SSC Report:	**Ministerial Advisers**		
Date:	18 February 2009	**SSC Register no:**	2/09-MoSS/939
Author:	[redacted]	**Contact DDI:**	495 6614

To:	**Action Sought**	**Deadline, date, reason**
Hon Tony Ryall Minister of State Services	☑ Sign attached letter to the PM	None

Purpose

A letter from you to the Prime Minister is attached for your signature. It notes the State Services Commissioner's intention to develop a code of conduct for Ministerial advisers and recommends that the other political parties in Parliament be consulted on this work.

UNDER THE OFFICIAL INFORMATION ACT

Office of Hon Tony Ryall

Minister of Health
Minister of State Services

2 4 FEB 2009

Hon John Key
Prime Minister
Executive Wing
Parliament Buildings
WELLINGTON

Dear Prime Minister

Ministerial Advisers: Development of a Code of Conduct

I write to advise you of proposed work to develop a code of conduct for Ministerial advisers and to look at the process by which they are appointed. Consideration could be given to the other political parties in Parliament being consulted on this work.

UNDER THE OIA

Office of the Prime Minister

Prime Minister
Minister of Tourism

Ministerial Services
Minister in Charge of the
NZ Security Intelligence Service
Minister Responsible for the GCSB

RECEIVED
16 MAR 2009
MINISTERS OFFICE

17 March 2009

CE 47-3-09
RECEIVED
25 MAR 2009

Hon Tony Ryall
Minister of State Services
Parliament Buildings
WELLINGTON

Dear Minister

Ministerial Advisers: Development of a Code of Conduct

The Prime Minister has asked me to reply to your letter dated 24 February 2009 regarding proposed work to develop a code of conduct for Ministerial advisers.

While I have no particular objection to the work proposed, I am of the view that to the extent there is an issue or problem to resolve it is one more of theory than practise.

The nature of ministerial advisers work is well understood – by the Minister they serve, the departments and Ministries they work with, the media and other political parties represented in Parliament. To the extent that there is any lack of clarity over ministerial advisers roles viz a viz that of other public servants, that can be resolved by informal training and guidance.

Given the important work that the State Services Commission has to undertake over the coming three year period to assist the government get the best possible outcomes from the public service, it is my view that this proposed work can only be described as low priority at best.

I am happy to discuss this matter with you at any time.

Yours sincerely

Wayne Eagleson

Wayne Eagleson
CHIEF OF STAFF

RELEASED UNDER THE OFFICIAL INFORMATION ACT

STATE SERVICES COMMISSION
Te Komihana O Ngā Tari Kāwanatanga

STANDARDS OF INTEGRITY & CONDUCT

A code of conduct issued by the State Services Commissioner under the State Sector Act 1988, section 57

WE MUST BE FAIR, IMPARTIAL, RESPONSIBLE & TRUSTWORTHY

The State Services is made up of many organisations with powers to carry out the work of New Zealand's democratically elected governments.

Whether we work in a department or in a Crown entity, we must act with a spirit of service to the community and meet the same high standards of integrity and conduct in everything we do.

We must comply with the standards of integrity and conduct set out in this code. As part of complying with this code, our organisations must maintain policies and procedures that are consistent with it.

For further information see **www.ssc.govt.nz/code**

FAIR

We must:

- treat everyone fairly and with respect
- be professional and responsive
- work to make government services accessible and effective
- strive to make a difference to the well-being of New Zealand and all its people.

IMPARTIAL

We must:

- maintain the political neutrality required to enable us to work with current and future governments
- carry out the functions of our organisation, unaffected by our personal beliefs
- support our organisation to provide robust and unbiased advice
- respect the authority of the government of the day.

RESPONSIBLE

We must:

- act lawfully and objectively
- use our organisation's resources carefully and only for intended purposes
- treat information with care and use it only for proper purposes
- work to improve the performance and efficiency of our organisation.

TRUSTWORTHY

We must:

- be honest
- work to the best of our abilities
- ensure our actions are not affected by our personal interests or relationships
- never misuse our position for personal gain
- decline gifts or benefits that place us under any obligation or perceived influence
- avoid any activities, work or non-work, that may harm the reputation of our organisation or of the State Services.

newzealand.govt.nz

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CODE OF CONDUCT FOR MINISTERIAL STAFF

STATE SERVICES COMMISSION
Te Komihana O Ngā Tari Kāwanatanga

A code of conduct issued by the State Services Commissioner under the State Sector Act 1988, section 57 (3).

WE MUST BE FAIR, PROFESSIONAL, RESPONSIBLE & TRUSTWORTHY

MINISTERIAL STAFF

Ministerial staff are employees (including acting, temporary or casual employees who are employed on events-based employment agreements by the Department of Internal Affairs and who work directly to a Minister in a Minister's office rather than in a department.

This group does not include departmental staff who are seconded or appointed to work in their Minister's office. Departmental staff are not covered by this code - they are subject to the Standards of Integrity and Conduct for the State services and are required to be politically neutral in their work.

Ministerial staff have an important role in providing advice and support to Ministers in the performance of their ministerial functions. Ministerial staff take political considerations into account in undertaking their work. The presence of Ministerial staff helps maintain the distinction between the executive and political aspects of the Minister's role.

EXPECTATIONS ON MINISTERIAL STAFF

The nature of the role means that Ministerial staff are not required to be politically neutral. Apart from this, Ministerial staff are expected to meet the same standards of integrity and conduct as other State services staff. Ministerial staff should be **Fair, Professional, Responsible and Trustworthy.**

FAIR

Means treating everyone fairly and with respect, and being responsive. It means working to make government services accessible and effective, to make a difference to the well-being of New Zealand and its people.

PROFESSIONAL

Means respecting the authority of the government of the day and the role of Parliament. It means respecting the duty of an independent State services to provide free and frank advice and undertake their responsibilities free from inappropriate influence.

RESPONSIBLE

Means acting lawfully and ethically, and working to improve the performance of government. It means using official resources and information carefully and only for proper purposes.

TRUSTWORTHY

Means being honest. It means ensuring actions are not affected by personal interests or relationships and not misusing a position for personal gain. It means avoiding any activities, work or non-work, that may harm the reputation of Minister's offices or the State services.

Published September 2017

So what is being ‘professional’ about

PROFESSIONAL

- Means respecting the authority of the government of the day and the role of Parliament. It means respecting the duty of an independent State services to provide free and frank advice and undertake their responsibilities free from inappropriate influence.

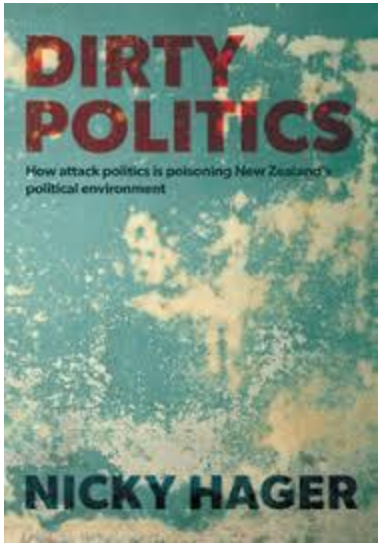
Some concerns and some questions

- Code tends to be ‘high road’ and aspirational (and is clearly aligned with the ‘parent’ Code)
- Other jurisdictions codes tend to be more prescriptive
- Codes should provide point of leverage for induction training (ethics) and guidance docs
- Codes need to be enforceable – processes for breaches of codes and indication of consequences …

eg British Code for Special Advisors

- 10. Special advisers should act in a way which upholds the political impartiality of other civil servants. They should not use official resources for party political activity. They are employed to serve the objectives of the Prime Minister, the Government and the Minister(s) for whom they work.
- 11. Special advisers should not disclose official information which has been communicated in confidence in government or received in confidence from others. The preparation or dissemination of inappropriate material or personal attacks has no part to play in the job of being a special adviser as it has no part to play in the conduct of public life. Any special adviser found to be disseminating inappropriate material will be subject to a disciplinary process that may include dismissal.

But NZ is immune to the kind of excesses we have seen in other jurisdictions? …



Office of the Inspector-General of Intelligence and Security

Report into the release of information by the New Zealand Security Intelligence Service in July and August 2011

Public Report

Cheryl Gwyn
Inspector-General of Intelligence and Security

25 November 2014

From the Report of the Inspector-General of Security and Intelligence

17. The inquiry benefited from a full and substantial documentary record. However, I was concerned to discover the use of personal email and telephone accounts by Mr Ede for some of his PMO work and indications that he did so in order to avoid any public record. Whether or not it is in general permissible for political advisers such as Mr Ede to adopt such practices, I observe that:

- The use of personal accounts meant that some records of Mr Ede's actions in relation to NZSIS information were not readily available, as noted above. It was possible to reconstruct those actions, including through other records and through Mr Ede's own evidence, but had others adopted similar practices, my inquiry would have required far more extensive investigations and could even have been denied material information.

Mon 25 July	First requests for information/comment on Leader of the Opposition briefing made to NZSIS (Felix Marwick (Newstalk ZB) and Jessica Mutch (TVNZ)); all media requests declined until 5 August. Director's meeting with Leader of the Opposition, followed by Leader of the Opposition press conference at which he states that he accepts the Director's assurance that the Israeli issue was raised in passing but did not see or read the SIR. PMO discusses Leader of the Opposition statements with Director; Director states that he gave the Leader of the Opposition the SIR and spoke briefly to it. PMO staff member gives details of NZSIS briefing record to Cameron Slater.
Tues 26 July	Cameron Slater OIA request received by NZSIS; Director decides to release copies of his meeting agendas and the SIR; NZSIS prepares response and redacts the documents.
Tue 2 August	OIA response sent to Mr Slater.
Thu 4 August	Mr Slater receives OIA response and releases it in a series of blog posts and in conjunction with TV3 news. Leader of the Opposition media comment that Director's briefing record, as released, mistaken and wrong.

The bigger picture

23 The risks posed by ministerial advisers to the neutrality of the public service has increased over time*

	SA	A	N	D	SD
2017	5.9	33.7	46.3	12.3	1.9

* We did not ask this question in 2005.

24 Public servants in 2017 are less likely to provide a minister with comprehensive and free and frank advice

	SA	A	N	D	SD
2005	19.3	29.9	24.1	21.9	4.8
2017	23.7	29.6	21.8	20.5	4.4

25 The Official Information Act has the effect of impeding the provision of free and frank advice*

	SA	A	N	D	SD
2017	11.8	29.4	20.3	31.0	7.5

So something else is going on

‘The neutrality of the public service has diminished over time. Free and frank advice is almost a standing joke. Much of this is because of a) the lack of intellectual capability of the Minister to intelligently receive and deal with information; b) *the protection of the Minister by senior officials* – not many experts get in front of the Minister these days and everything is relayed second or third hand; c) *the over-zealous anticipation of the Minister’s wants (not needs)*, meaning short-term satisficing rather than senior officials having a strategic view; and d) the short term political view, meaning that anything taking longer than three months isn’t considered worth investing in’ (emphasis added).

Survey respondent

The status quo traffic light

And some evidence of egregiously inappropriate behaviour

But systemic risks associated with filtering, gate-keeping, getting into spaces where they have no right to be

Ministerial Advisors (political) embedded and viewed as making a positive contribution

www.HaveMySay.govt.nz

What are the proposed purpose, principles and values?

Purpose – To deliver results and services for citizens, serve the Government effectively and support our democratic process.

Principles – Political neutrality, free and frank advice, merit selection, openness, stewardship.

Values – Impartiality, accountability, behave with integrity, respectful.

How do they apply to public servants?

The purpose, principles and values will be a unifying and common element for all public servants. Our intention is that they will be brought to life through departmental leadership, be reflected in corporate documents, and be implemented through various instruments such as codes of conduct and related departmental policies and practises.

What do they mean for Ministers?

The Cabinet Manual already sets out expectations for the relationship between Ministers and the Public Service, and this will be reinforced through the legislative articulation of the purpose, principles and values that underpin the Public Service.

Conclusion – which is just one reason why the present ‘reset’ is timely and important

- Codifying purpose, values, principles a positive move
- Behavioural change imperative – senior leadership, and ‘demand’ side from Ministers
- Good and bad things are top down, politically and administratively

Ready, steady - SUBMIT