

Institute of Public Administration  
New Zealand (IPANZ)  
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Public Administration, Crown Entity Governance,  
Political Neutrality, and Speaking Out:  
A conversation we need to have

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- ▶ These are the slides that I used as the basis for a discussion with the members of the Institute of Public Administration NZ (IPANZ) at their AGM on 26 July. There have been further developments relating to the issues that were discussed at the AGM, but I have not sought to update these slides.
- ▶ The discussion was held under the Chatham House Rule and was in two parts:
  - ▶ 1. Some introductory remarks on the history of the Institute, its genesis and close relationship over time with universities (and VUW in particular) involved in teaching and research in Public Administration), and
  - ▶ 2. Some reflections on the principle of public service neutrality in the context of Crown Entity governance, and some recent cases going to neutrality or the alleged lack thereof.
- ▶ A number of hypotheticals were prepared to assist with the discussion, but not all of these were used given time constraints (given what were some impressive contributions from the floor on these issues). All the ‘hypotheticals’ are included with this slide pack **(you are welcome to use them)**.



# Karakia

Kia hora te marino

*May peace be wide-spread*

Kia whakapapa pounamu te moana

*May the sea be like greenstone*

Hei huarahi mā tātou i te rangi nei

*A pathway for us all this day*

Aroha atu, aroha mai

*Give love, receive love*

Tātou i a tātou katoa

*Let us show respect for each other.*

## 'Please don't let it happen': Protesters front up to Massey University council over restructures | Stuff.co.nz

Thank you for the kind words of introduction. Let me congratulate the Institute on the year in review and wish the President, staff, and incoming Executive all the best for what portends as a challenging year in prospect.

Years ending with a 3 are important to me as I reflect on my time spent in the tertiary education sector. I joined Massey University in 1993 where I met, for the first time the person who would be my close friend and research collaborator for the duration of my full-time university employment (and possibly beyond): Professor Richard Shaw - more on him presently. Since the early 2000s (2003 when I joined the staff of the School of Government at VUW), Richard and I have focused our research and publications on changes in the composition of the 'core' executive and more specifically the challenges posed by the advent of political advisors in Ministerial and Prime Ministerial Offices. When we first set out, our objective was to publish something in *Public Sector* - not as a step on the ladder, but as a step in its own right. And we have done that and more besides. What started out as an area of research that was viewed as 'fringe' is now an international network of scholars researching the interface between politics and administration. Of course, Woodrow Wilson was there long before Richard and I were on the scene.

The slide title is a link to a recent news story that focused on staff at Massey University making representations to 'their' Council on the implications of cuts to staff and programmes. There is a video clip in which Richard very eloquently makes the case against those cuts. Public administration in practice.

- ▶ Now those cuts are not confined to Massey. As most in this audience will be aware, Victoria University of Wellington/Te Herenga Waka is also going down a path of austerity that features staff losses, and potentially the loss of programmes. Programmes that are retained will lose capacity and capability - research and teaching objectives and outcomes are already compromised. It is a tragedy and it was avoidable. I look around the room this evening and I see colleagues who were active in the Institute for Governance and Policy Studies (before that the Institute of Policy Studies) at VUW. It is no more. My purpose is not to rally support for programmes, courses of study, and research (but feel free to do what you can!), but it is to bridge through to one of the founding premises of IPANZ.
- ▶ The next slide is a series of 'dot points' covering key milestones in the formation of IPANZ.
- ▶ My source is the excellent history of the Institute, "A Spirit of Service: A History of the Institute of Public Administration New Zealand, 1936-2006". The author of that volume is one of the leading public servants and academics of his generation - John R Martin. I consider it a rare privilege to have worked with and learned from him (and I recall publishing an interview with him in *Public Sector*).

# Formation of IPANZ

- ▶ Auckland and Dunedin Societies established
- ▶ Wellington and Christchurch representatives meet
- ▶ “Representatives of the four societies met in Wellington on 3 and 4 March 1936 and formally resolved to form the New Zealand Institute of Public Administration” (2006: 7)
- ▶ From the original rules:
  - ▶ “(d) to keep the members and the public informed by means of lectures and publications as to the functions, aims and utility of the public service
  - ▶ (e) to publish a journal
  - ▶ (f) to procure the establishment of a University Diploma or Diplomas in Public Administration”

# Let me introduce Dwight Waldo



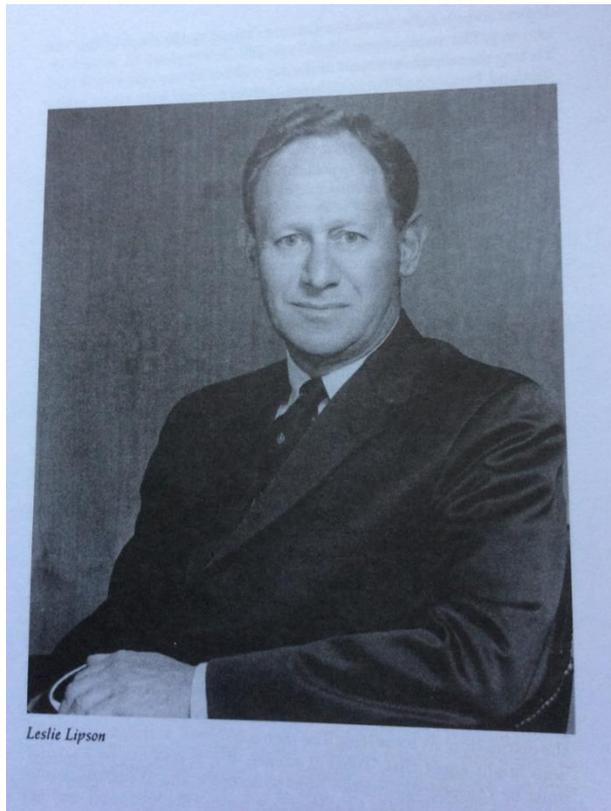
- ▶ **Clifford Dwight Waldo** (September 28, 1913 - October 27, 2000) was an American political scientist and is perhaps the defining figure in modern public administration.<sup>[1]</sup> Waldo's career was often directed against a scientific/technical portrayal of bureaucracy and government that now suggests the term public management as opposed to public administration.<sup>[2]</sup> Recognized the world over for his contributions to the theory of bureaucratic government, Waldo is only now taking his place as one of the most important political scientists of the last 100 years.
- ▶ Waldo challenged mainstream scholars' view of public administration as a value-free, non-partisan social science that promised to make government more efficient and effective. Professor Camilla Stivers has observed, "Despite public administration's claim to be a science, Waldo declares, it is a political theory [...] Political theory looks to error in the world and aims to envision new possibilities. It is critical rather than objective, suggestive rather than conclusive." In short, "efficiency" itself is a value, and it can run counter to other values, such as democratic participation in governance.

# And from Waldo to IPANZ:

Let me quote from John Martin's history of the Institute ...

- ▶ “the Institute saw its activities directly joined with the academic discipline of public administration. The founders shared the belief enunciated by Waldo ... that there were general principles of Public Administration that could inform the work of practitioners. It was acknowledged explicitly that the discipline was international, and that New Zealand could learn from the experience of other jurisdictions, Equally there is an implication that practitioners had an obligation to contribute to the work of the academy to ensure that it was solidly grounded and, in a word more evocative of later decades, relevant.” (2006:9)

# Enter Professor Leslie Lipson



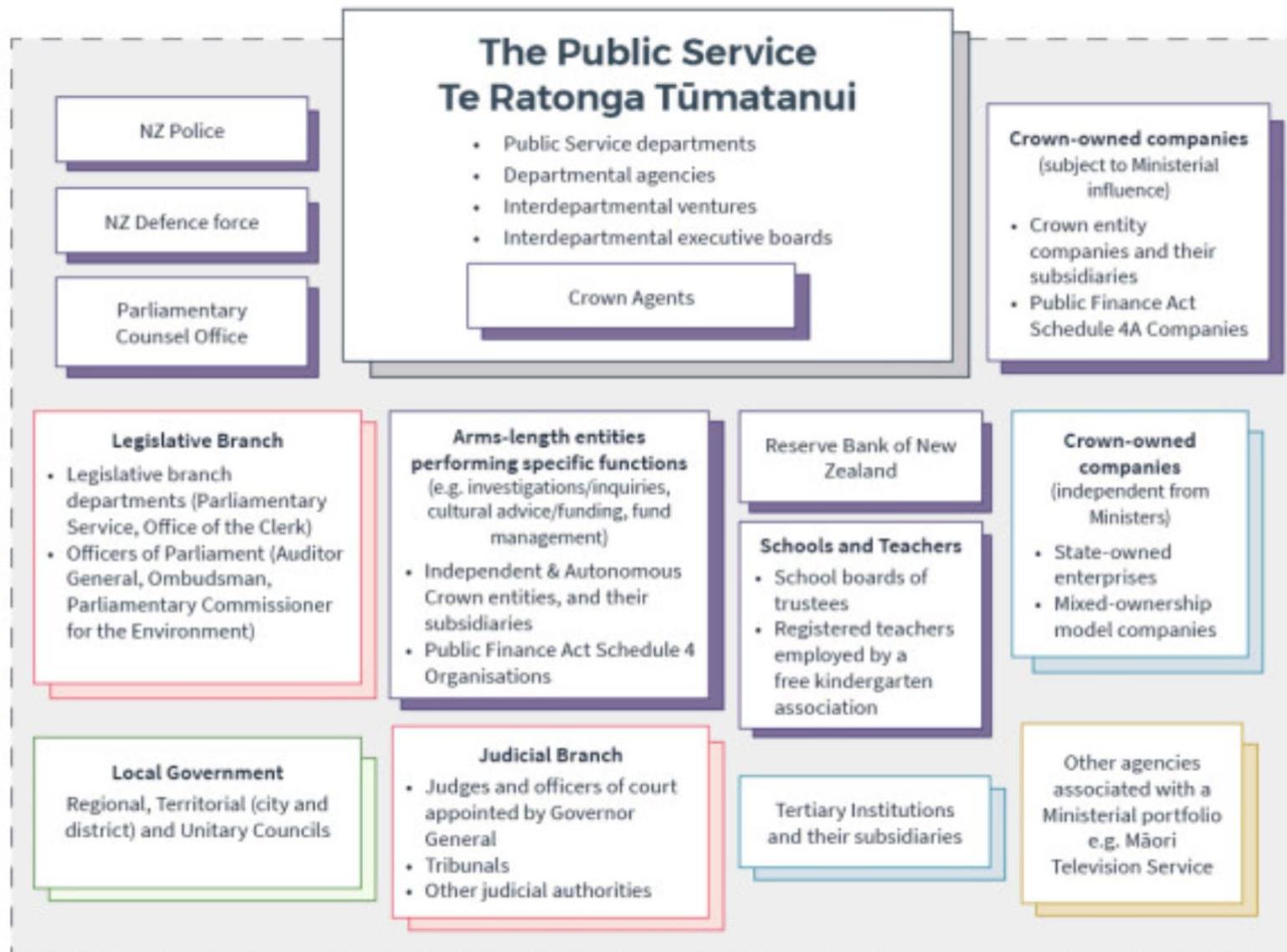
Lipson was the founding Professor of Political Science at VUW. In that role he reached out to IPANZ to partner with the University in establishing a teaching and research programme in Public Administration at VUW

- ▶ “When the Government gave the University the funding to create a Department of Political Science, one of the organisations actively supporting the idea was the recently formed NZ Institute of Public Administration. Their leading spirits, who included some dedicated public servants, wanted the University to provide higher education for administrators. My responsibility was to organise a programme. For this I prepared myself by interviewing the heads of Departments and by learning about the history of the Public Service”.

- ▶ Lipson moved back to the United States in 1947, taught at Swarthmore College for two years, and then was a professor at UC Berkeley from 1950 until his retirement in 1984. He received several teaching awards from students while at UC Berkeley, and was given the Berkeley Citation in 1980 for his service to the university.
- ▶ My point here is to simply rehearse the relationship between people of vision within the academy, within the public service, and within IPANZ and what they achieved. We should celebrate that.
- ▶ **But we should also recognize that what they achieved is – in terms of the relationship between the Institute, VUW in particular, and other universities in Aotearoa/New Zealand – at very serious risk. My challenge to the Institute is to initiate the kinds of conversations that will seek – at the very least – to minimize the damage to Public Administration (as a ‘vocation’ – to use S R Parkers words), and as a field of academic inquiry.**

Part the second. But first a quick  
burst of advanced civics ...

# The Public Sector | Te Rāngai Tūmatanui



# What are Crown Entities?

- ▶ Crown entities are part of government and are owned by the Crown. Establishing a Crown entity reflects a decision by Parliament that a function or functions should be carried out at ‘arms-length’ from ministers. The Crown Entities Act provides the framework for establishing, governing and operating all categories of Crown entities. It also clarifies the roles, responsibilities and the accountability relationships between Crown entities and their boards, responsible ministers, and their departments.
- ▶ This arms-length separation from ministers may be required to credibly distance ministers from involvement in decision-making that relates to individual persons or organisations (e.g. around funding culture and heritage), **and to provide access to the broader range of skills that a governance board brings**. Ministers are answerable to Parliament for overseeing and managing the Crown's interests in, and relationships with, the Crown entities in their portfolios.
- ▶ A list of Crown entities is maintained by the Te Kawa Mataaho Public Service Commission (the Commission) as part of [New Zealand's Central Government Organisations](#). Lists of all Crown entities by Ministerial portfolio can be found in [Directory of Ministerial portfolios](#).
- ▶ Crown entities matter because they deliver many public services of importance to New Zealanders and often are the ‘face of government’.

# The Public Service Act 2020

## ▶ 12 Public service principles

▶ (1) In order to achieve the purpose in [section 11](#), the public service principles are:

### ▶ *Politically neutral*

▶ (a) to act in a politically neutral manner; and

### ▶ *Free and frank advice*

▶ (b) when giving advice to Ministers, to do so in a free and frank manner; and

### ▶ *Merit-based appointments*

▶ (c) to make merit-based appointments (unless an exception applies under this Act); and

### ▶ *Open government*

▶ (d) to foster a culture of open government; and

### ▶ *Stewardship*

▶ (e) to proactively promote stewardship of the public service, including of—

▶ (i) its long-term capability and its people; and

▶ (ii) its institutional knowledge and information; and

▶ (iii) its systems and processes; and

▶ (iv) its assets; and

▶ (v) the legislation administered by agencies.

# 17 Commissioner may set minimum standards of integrity and conduct

- ▶ (1) The Commissioner may set minimum standards of integrity and conduct, including standards relating to—
  - ▶ (a) the public service values:
  - ▶ (b) the public service principles.
- ▶ (2) Those minimum standards may apply in or to—
  - ▶ (a) the public service (including Crown agents):
  - ▶ (b) Crown entities (other than Crown agents and excluding tertiary education institutions, and Crown Research Institutes and their subsidiaries):
  - ▶ (c) companies named in [Schedule 4A](#) of the Public Finance Act 1989:
  - ▶ (d) the Parliamentary Counsel Office.

## Code of Conduct For Crown Entity Board Members - Te Kawa Mataaho Public Service Commission

- ▶ **We are politically impartial**
- ▶ **We act in a politically impartial manner. Irrespective of our political interests, we conduct ourselves in a way that enables us to act effectively under current and future governments. We do not make political statements or engage in political activity in relation to the functions of the Crown entity.**
- ▶ When acting in our private capacity, we avoid any political activity that could jeopardise our ability to perform our role or which could erode the public's trust in the entity. We discuss with the Chair any proposal to make political comment or to undertake any significant political activity.

- ▶ **We are honest and open**
- ▶ **We act with honesty and with high standards of professional and personal integrity.**
- ▶ We are truthful and open. We speak up in board meetings on decisions or advice that may be detrimental to the public interest.
- ▶ **We are fair**
- ▶ **We deal with people fairly, impartially, promptly, sensitively and to the best of our ability.**
- ▶ We do not act in a way that unjustifiably favours or discriminates against particular individuals or interests. We help create an environment where diverse perspectives and backgrounds are encouraged and valued. We treat other members and staff employed by the entity with courtesy and respect.
- ▶ **We speak up**
- ▶ **We report unethical behaviour when we see it. We treat all concerns raised by others seriously.**
- ▶ We support the entity to have clear policies and procedures in place that help expose serious threats to the public interest, and encourage open organisation cultures where all staff feel safe speaking up.

## 22 Board of Māori Health Authority

- ▶ (1) The board of the Māori Health Authority consists of not fewer than 5, and not more than 8, members.
- ▶ (2) When appointing members, the Minister must be satisfied that the board, collectively, has knowledge of, and experience and expertise in relation to,—
  - ▶ (a) te Tiriti o Waitangi (the Treaty of Waitangi), tikanga Māori, and mātauranga Māori; and
  - ▶ (b) kaupapa Māori services; and
  - ▶ (c) cultural safety and responsiveness of services; and
  - ▶ (d) the public funding and provision of services; and
  - ▶ (e) public sector governance and government processes; and
  - ▶ (f) financial management.
- ▶ (4) ... that the Minister must consult the Hauora Māori Advisory Committee before appointing any member.

# Now to other issues of present import

- ▶ But first - disclosure.
- ▶ There have been times in the past when I would have counted Rob Campbell and the Hon Steve Maharey as friends and colleagues.
- ▶ In terms of the former, we were both involved as negotiators in the 'award' rounds of the mid 1980s, and with attempts by the NZ Federation of Labour to coordinate a wage path set by early award settlements.
- ▶ I came to know Steve Maharey when I was teaching at Massey University Palmerston North, and following the 1999 election joined his staff as Senior Ministerial Advisor for the term of that government, after which I moved to the Office of the Rt Hon Helen Clark.
- ▶ I've never met Jason Ake.

# Political neutrality

- ▶ Tonight's discussion will focus on political neutrality only in respect of what it means for individuals involved as Board members on Crown Entities (i.e. focusing on recent events). The intention is to provoke a conversation, not - on my part - to 'defend or bury'.
- ▶ Much of the research that Richard Shaw and I have conducted over the past 20 years has focused on political neutrality, and the challenges (threats) posed to it by the advent of political staff in the executive branch of government. The arena we are talking about this evening is different.
- ▶ One can envisage a continuum between political neutrality and politicization (the latter has been our main focus). But it is a continuum and not a discrete binary. Arguably removing permanent tenure from what used to be Permanent Heads increases the risk of politicisation. Equally departments that self-censor in order to please Ministers might be seen as compromising their capacity to proffer free and frank advice - an aspect of political neutrality (particularly when one views the Public Service as enjoying a Constitutional status).
- ▶ Crown Entity Board members discharge duties and obligations within the Public Service, and may well be public servants (of a kind) when doing so. But they are not typically members of the permanent public service. They wear different hats in different contexts (a popular word in these times).

# This morning's news ...

- ▶ Time to get to the computer and update the slides for this evening's discussion ....
- ▶ Jason Ake was a recent appointee (by Broadcasting Minister, the Hon Willie Jackson, to the Board of Radio New Zealand (a Crown Entity)

# RNZ board member Jason Ake resigns after comments on Kiri Allan

10:32 am on 26 July 2023 (today)

- ▶ "Yep you heard it right whanau I notified the chair yesterday that I was out," he wrote. "I didn't want to be a distraction because the mahi ahead for RNZ is significant. I also wanted to leave with my principles and values firmly intact and on my terms."
- ▶ He also acknowledged the support offered to him, and said the focus should be on the mental health and wellbeing of the people, "irrespective of the political landscape".
- ▶ "I'll continue to advocate unapologetically for our people whether it's from the inside or outside and yes sometimes it might be a bit noisy."
- ▶ **Ake had initially posted on Facebook on Tuesday questioning why Allan was cleared to return to Parliament (emphasis added).**

“When there’s blood in the water the sharks circle and they’re more than happy to digest every last morsel and watch the bones sink to the depths. It is a blood sport,” Ake wrote.

Allan was arrested overnight on Sunday and charged by police with careless use of a motor vehicle and failure to accompany a police officer.

Ake was approached for comment, but stopped answering his messages. RNZ did not respond to requests for comment and Broadcasting Minister Willie Jackson’s office did not respond to requests for comment. Prime Minister Chris Hipkins said he had not seen the post.

Appointees to Government boards are under the microscope this year after Rob Campbell was sacked from the Te Whatu Ora board and the Environmental Protection Authority board for taking aim at the National Party over its opposition to co-governance.

Campbell was followed by a slew of allegations against other Government board members, including former Labour ministers Steve Maharey and Ruth Dyson. Maharey was found to have breached impartiality rules too, but kept his job as chairman of ACC, Pharmac and Education NZ.

More to come on Campbell and Maharey.

## ▶ Earlier:

- ▶ Prime Minister Chris Hipkins told Morning Report it was not appropriate for a board member of a Crown entity to publish his opinions in such a public space.
  - ▶ "Somebody who is on a board of a Crown entity, particularly an independent media entity like Radio New Zealand, shouldn't be providing an independent political commentary."
  - ▶ Hipkins said it was ultimately a matter for the broadcasting minister.
  - ▶ "Everybody's human and I think the question is whether or not we see a repeat, whether there's a pattern of behaviour or something that is a one-off."
  - ▶ "If he was to continue to go in this vein and continue to ride a stream of independent political commentary, I think that would question whether or not he was the right person to be on the board of Radio New Zealand."
  - ▶ In a statement, the RNZ board said chairperson Dr Jim Mather, who is currently overseas, has been made aware of the issue and has spoken to Ake about his responsibilities under the Code of Conduct for Crown entity board members.
  - ▶ He specifically informed Ake of the protocol which states "when acting in our private capacity, we avoid any political activity that could jeopardise our ability to perform our role or which could erode the public's trust in the entity".
  - ▶ The board said Mather acknowledged that Ake was new to it and "will be discussing the matter with him directly upon his return from overseas at the end of this week".
  - ▶ "No further comment will be made until Dr Mather and Mr Ake have had that opportunity to discuss the matter."
- ▶ Q: What do you think? - was Ake justified in making his comments? What was he concerned about? Given the strictures relating to what Board members may or may not say publicly did he 'break the rules'?

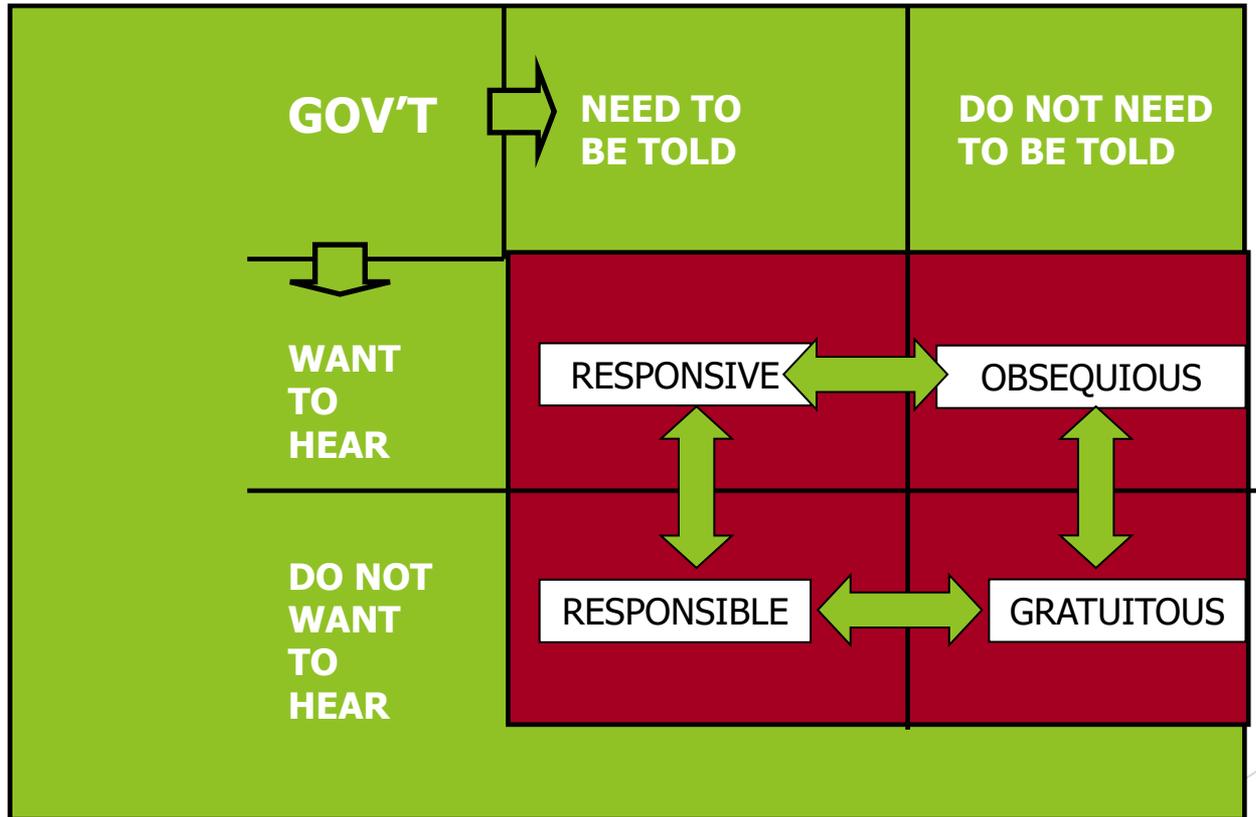
# Is it just me, or ...

- ▶ Is there at least the potential of a tension between devolved modes when it comes to the ‘machinery of government’ - providing “**access to the broader range of skills that a governance board brings**” – and the strictures that apply to the conduct of the members of Crown Entity Boards.
- ▶ So the ‘hobbled’ exhortation may be: “Go out there and engage. Harness the views of those with an investment in policy development, implementation, evaluation and review .... but keep your own counsel when it comes to what you find”
- ▶ Perhaps this assumes that Ministers are providing the ‘political’ leadership. In the perceived absence of that leadership (say by the members of a Board) what is to be done?

# Now to one of my favourite slides and a possible analogy

- ▶ The slide is taken from a presentation that then Secretary to the Australian Commonwealth Treasury gave at an all-up meeting of his staff in Canberra prior to the 2007 Australian Federal Election
- ▶ One surmises that his intention was to indicate his views and expectations on how best public servants might discharge their obligations to the 'service' (perhaps Constitutional public service) and the political 'principals' elected to oversee departments of State ...

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



- ▶ The focus should be on the left-hand columns.
- ▶ The optimal circumstance, we might surmise, is one in which there is an appropriate balance between responsive and responsible competence - a 'governance sweet spot'. This might well involve, on occasion, being the 'pebble in the shoe'.
- ▶ Too much responsiveness and the public service risks being politicised (and political neutrality compromised)
- ▶ Too much responsibility and we enter the swamps of departmentalism where public 'servants' see it is quite appropriate to frustrate Ministerial/Government objectives and the focus instead is on the enduring qualities of departmental policy objectives, and 'growing the bureaus'.
- ▶ Editorial comment - both observed. From a long-standing CE to the Minister- "Our job, Minister, is to make you look good ..."
- ▶ From a Department - a withdrawal of good will (a passive aggressive 'strike') that resulted in a cabinet Paper having to be drafted in the Ministers Office by non-departmental (and exceedingly capable) Ministerial staff
- ▶ **Q: Is there 'sweet spot' when it comes to the discharge of responsibilities by Crown Entity Board members?**

# Hypothetical

- ▶ You are the Chief of Staff (perhaps SPS or Senior Ministerial Advisor) in a Minister's Office. The Minister has indicated a strong desire to establish a team or 'crew' culture spanning political and non-political (i.e. Private Secretaries) in her office.
- ▶ When Opposition oral questions are received (around 11.00 am) there is an initial meeting of all staff to 'triage' the questions and identify what information may be required to answer them (anticipating supplementary questions!)
- ▶ The meeting reconvenes at 12.30 pm to draft notes by way of replies to questions - primary and supplementary - to assist the Minister when she attends the House for Question Time. The Minister is present for this meeting, and may ask for additional information/advice ...
- ▶ **Q: Is it appropriate for all Ministerial Office staff to participate in these meetings, and to contribute to all matters that may be raised - whether relating to information or management?**

# Hypothetical

- ▶ You are preparing advice for Ministers on appointments to a Crown Entity Board. The Crown Entity has responsibilities in the Tertiary Education Policy space (it is not a TEO).
- ▶ There is a candidate who appears to meet all of the person/position requirements but in ‘researching’ this individual you have discovered a social media post (from 12 months ago) in which the individual made the following observation regarding a position taken by a party leader (other than the party presently in power) regarding co-governance:
  - ▶ “There should be one law for all New Zealanders. Co-governance is an open invitation to relitigate past mistakes for which no one presently alive has any responsibility. It is, in effect, administrative apartheid”
- ▶ **3 Questions:**
  - ▶ Is this a relevant consideration.
  - ▶ Do you provide advice to Ministers on this matter?
  - ▶ What is that advice?

# The Campbell case: A comment published on Social media platform, LinkedIn

- ▶ Campbell said on a LinkedIn post National's policy was a thinly-disguised "dog whistle on co-governance", RNZ reported.
- ▶ He went on to target Luxon, writing: "Christopher Luxon might be able to rescue his party from stupidity on climate change but rescuing this from a well he has dug himself might be harder".

## Explainer: Is health chair wrong on neutrality - or are the rules wrong? (Newsroom – 02 Mar 2023, By Jonathan Milne)

### ▶ **Friends, foes and more foes**

- ▶ Rob Campbell brings to the table his own definition of neutrality, or impartiality. "Excuse me for being literal beyond that but I think that the Oxford definition is 'not supporting one person or group more than another'," he says.
- ▶ And there's an element of truth to that. Despite being unashamedly of the left, his LinkedIn posts have sometimes criticised Labour Government ministers just as they have criticised National's Christopher Luxon and Act's David Seymour.
- ▶ In the weeks before he was named as chair of Te Whatu Ora's transitional board, he criticised Tourism Minister Stuart Nash's lack of vision for the industry, and spoke out as a member of a business grouping critiquing the Government's Covid response.
- ▶ Indeed, in November last year, the National Opposition was more than happy to align itself with Campbell's public criticisms, when it suited. "Who is correct," asked health spokesperson Dr Shane Reti, "the chair of Health NZ Rob Campbell, who told Heather Du Plessis Allan last week that there are multiple crises in the health system; or the Minister, who still denies there is a crisis?"
- ▶ Campbell tells Newsroom: "Mr Reti and I would seem to have found one thing we agree on!"
- ▶ Now, Luxon says he had no idea that Rob Campbell was so outspoken until the weekend's Three Waters post was brought to his attention.
- ▶ "That's totally not credible," Campbell retorts. "Mr Luxon has his limitations but he is not deaf and blind."
- ▶ **Jonathan Boston** says simply: "There are ways of saying things that aren't going to be controversial or undermining this particular convention of political neutrality."
- ▶ But Campbell notes that National seemed relaxed about him stepping into the political arena when his views aligned with theirs, but only got upset when he criticised them. "They are obviously sensitive souls, bless them."
- ▶ **The question is, does political neutrality imply not criticising anyone - or can it entail spraying criticism at everyone?**
- ▶ Campbell says: "I am an equal opportunity commentator."

# Should he have been sacked? One view - yes he should!

- ▶ Campbell had made public comments critical of a National Party policy on Three Waters, accusing the party of dog whistling on co-governance.
- ▶ **Health Minister Ayesha Verrall** sacked Campbell as chairperson of Te Whatu Ora, saying she had lost confidence that he could act with political impartiality.
- ▶ Campbell is unrepentant about his commentary and has called Verrall out for over-reacting. Shortly after he was sacked, he told Stuff it was a shame that National Party leader Christopher Luxon had “accepted” his apology but Verrall could not.
- ▶ **Former director-general of health Sir Ashley Bloomfield** weighed in on the debate on Wednesday. He said Campbell’s sacking and comments were “a big story”, because it was so rare for public service leaders to run into trouble about their views.
- ▶ “I spent much of the last 25 years in New Zealand’s excellent public service and saw no evidence of either left or right ‘leaning’. I have no idea how any of my former chief executive colleagues voted. We just didn’t talk about it,” he said in a post on social media.
- ▶ **[My comment: Agreed - but what about Board members of Crown Entities?]**
- ▶ Campbell said his comments were in line with his views on health reform and the public health sector’s mission to address health inequity for Māori. He said co-governance and Treaty partnerships were needed to improve social and health outcomes for Māori.
- ▶ “I’m not making any apologies for supporting that kaupapa,” he said.
- ▶ On Wednesday morning, he appeared live on Breakfast and doubled down on his comments. He insisted he was the right man to lead Te Whatu Ora and had remained impartial on politics related to that role.
- ▶ “I do think I’m politically neutral and impartial,” he said.
- ▶ “That doesn’t mean, as I’ve said, that I’m neutered. It doesn’t mean that I’m sitting there like a stuffed parrot, a parrot that’s been trained to say ‘Polly wants a biscuit’ whenever the minister wants. That’s not what I’m there for, that’s not what I signed up for.”

# The alternative - No , he shouldn't have been

- ▶ **Health commentator Ian Powell** said the sacking was "an unfortunate decision" and seemed a convenient excuse to remove an increasingly outspoken chair.
- ▶ "He was becoming too much of a free thinker, I think. That just did not gel with government. And so when he made this error of judgement... they've lopped off his head as a consequence."
- ▶ Powell, a former head of the senior doctors' union, said the loss of a key figurehead would "hurt the already-destabilised health system" and undermine the "seriously troubled" reforms.
- ▶ "It's reputational damage on top of an existing credibility issue."
- ▶ **Former ACT leader Richard Prebble** said Campbell's expulsion was "a tragedy for everyone" and the government would struggle to replace him with someone of the same calibre and experience.
- ▶ "If you fire every director for having a political view, you're going to end up with very few directors," Prebble said.
- ▶ "I don't agree with that health policy, but it should at least be run by someone who's capable."
- ▶ Prebble said the code of conduct, in his view, only covered Campbell's comments which related to his position at the health authority, not other issues.
- ▶ "I completely disagree with his point of view, but I absolutely agree with his right not to be censored."

And now to the Hon Steve Maharey ....

One of his Op-eds that lead him to offer up his resignation in the light of the Campbell affair ...

22 JAN 2023, Edition 1, Page 14

## Labour needs to remember its original election promises

By: Steve Maharey

- ▶ In the early days of that government, Ardern identified challenges that included climate change, inequality, child poverty, Te Tiriti, skills, incomes, productivity, infrastructure, the environment, housing and more. Much more.
- ▶ This was a government that understood New Zealand needed transformational policies to create a new New Zealand.
- ▶ In the past five plus years Labour has managed the challenges thrown at it while putting in place changes that have ensured New Zealand compares very well with other OECD nations. Without Covid more progress would have surely been made.
- ▶ As the Labour caucus (oddly its meeting was in Napier at the same time as National's) contemplates the future, it would do well to remember why it was elected in the first place - to make a new and better New Zealand. Incoming leader Chris Hipkins will be his own person, but would be wise to embody those original aspirations. He, and a refreshed line-up of ministers, have until October to make it clear to voters that the work to bring about positive change continues.
- ▶ That story needs to be told alongside a reminder that Labour is the battle-hardened team that can get the job done.
- ▶ It is appropriate that the National Party was alongside Labour in Napier this past week because it encouraged comparisons. National has just released its refreshed line-up. An objective observer might be forgiven for pointing out that nothing seems new or fresh about the team National is offering.
- ▶ Indeed, it is hard not to see National in the same light as US Republicans, Liberals in Australia or Conservatives in Britain: more interested in the past than the future.
- ▶ ACT has pointed this out already as it worries National in government would revert to type and do nothing. This is a view perhaps reinforced by the list of large donors to National's election coffers. Nothing about them suggests they want change. They made their money under a system that favoured them. More of the same please.
- ▶ There is no denying that Labour looks and talks like the New Zealand of the future. But they have work to do.
- ▶ A crowded policy agenda needs to become clear, achievable and compelling. Ministers and the wider caucus will need to demonstrate unity of purpose and deliver results.
- ▶ They need to be the government New Zealand must have if it is to meet the challenges of this century. No-one should be left to think that more of the same or more of the past will lead to a fair, prosperous and sustainable future we can all have a stake in.

# My assessment

- ▶ Brickbats and bouquets to both major parties.
- ▶ Political comment to be sure, but a breach of political neutrality?
- ▶ Does this ‘cross the line’ into political comment that compromises political neutrality, all the more so when the comments appear not to reflect on any of the Crown Entities for which he discharges a governance responsibility? (Pharmac, Education NZ, the ACC)

# The Maharey 'mea culpa' - implications and consequences

- ▶ Maharey is someone uniquely well placed (some might argue) to contribute to the public conversation on matters like tertiary education policy (my earlier comments refer), managing roles/personnel in a Cabinet Office, reconciling political and administrative imperatives in a Cabinet Office etc. He was the architect of the tertiary education reforms that saw the establishment of the TEC. He has been a Vice Chancellor (I was one of his referees). But he has taken himself 'out of the game'
- ▶ It could be argued that offering his resignation was tantamount to being a witness for the prosecution in the case of Campbell, and may have legitimised - in the eyes of some - the latter's dismissal
- ▶ It could be argued that his offer to resign was unnecessary (and that any concerns on the part of Ministers and the Government might have been addressed with less dramatic flair).

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## Maharey broke impartiality

By: Anna Whyte

- ▶ Steve Maharey will keep his jobs as chairman of ACC, Pharmac and Education NZ, despite breaching impartiality rules, Prime Minister Chris Hipkins says.
- ▶ Hipkins said yesterday that Public Service Commissioner Peter Hughes had advised that Maharey's political commentary breached the rules for impartiality, "but at the lower end of the spectrum".
- ▶ Maharey, who was a Labour MP for almost 20 years, offered his resignation to ministers when he self-reported his columns in the wake of Rob Campbell's sacking from Te Whatu Ora and the EPA.
- ▶ Maharey had been writing opinion columns for some time, appearing on Stuff and in the Sunday Star-Times.
- ▶ However, both Hipkins and Luxon said they were not aware of this. He doxed himself in to Hughes on Saturday, the Commissioner said, and also contacted the relevant ministers.
- ▶ Hipkins said Maharey's acknowledgement and offer to resign showed he took neutrality seriously. "He proactively acknowledged the error, has undertaken to stop writing the column and apologised. There's a clear distinction between the cases of Maharey and Campbell in patterns of behaviour and future intent."
- ▶ Hughes said only two of Maharey's columns delved into party politics while he was a chairman.
- ▶ "Maharey's public comments have jeopardised his ability to effectively perform his roles or eroded public trust in the relevant entities," Hughes said.
- ▶ But he advised against sacking him. "The relatively restrained nature of the comments, Mr Maharey's history as a regular commentator and his publicly expressed willingness to adjust his approach in future lead me to conclude that his actions fall short of justifying dismissing him," Hughes wrote, in a letter to Little.

## 2 more Hypotheticals

- ▶ You are a ‘senior public servant’ who engages directly with the Minister from time to time. The Minister can adopt a robust approach to conversations and you feel that, at times - through tone, and even what you perceive to be aggression - the Minister may have ‘overstepped the mark’. **What do you do? Is talking to the press an appropriate option (if so, why; if not, why not?)**
- ▶ You are a Chief Executive and have been advised by a ‘senior public servant’ who reports to you that concerns have been raised regarding relationships within the Minister’s office. These concerns relate to the Minister himself, **not to any ‘political staff’ employed on contracts through the Department of Internal Affairs**. Your assessment is that you need additional advice from outside your department. **Who do you go to, and why?**



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# Where to from here – the authorising environment for the Victorian Public Sector in 2021



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'It's time to pivot.'



Messaging



# What is an authorising environment?

- ▶ Public sector organisations require authority to deliver on their functions. This authority comes in different forms and from different sources which make up an 'authorising environment'. There are:
  - 'Formal' or 'hard' authorities, like those granted through legislation, budget approvals and a range of statutory, financial or administrative delegations. These are necessary, but insufficient on their own, to enable an organisation to be successful.
  - 'Informal' or 'soft' authorities, which are the mission-critical people and organisations that support and authorise the scope of work and manner in which work is undertaken. This can include ministers, central agencies, other departments, portfolio agencies and a wide range of stakeholders.
- ▶ Building positive relationships with your informal or soft authorities is essential to creating an authorising environment that provides legitimacy, support and consensus around your issues and recommendations. They can become key sources of risk to achieving your objectives if they are not engaged early and actively managed. Stakeholder engagement planning will help to identify those who are critical to your authorising environment.

## Whistle-blowing etc.

- ▶ A topic worthy of consideration in its own right and one that has featured in my teaching (to first year students as well as graduate students) over many years
- ▶ My starting point - **the ‘Ponting Principle’** (see John Uhr, “Terms of Trust: Arguments over ethics in Australian Government”, Sydney, University of New South Wales Press, 2005).
- ▶ Lots of stuff we could have talked about - I’m happy to continue the conversation off-line - [chris.eichbaum@vuw.ac.nz](mailto:chris.eichbaum@vuw.ac.nz)

# And so ...

- ▶ We have these ‘arms length’ agencies (that may differ in a material way depending on what kind of Crown Entity they are).
- ▶ But we have just the one Code of Conduct.
- ▶ We have a range of authorising environments, some of which imply a large measure of administrative discretion. And perhaps also imply a close relationship with stakeholders that could conceivably see administrative actors defending the interests of ‘clients’.
- ▶ **Can Codes of Conduct meet the demands of a range of authorising environments?**
- ▶ **And sitting behind some of this we have aspects of a political culture in Aotearoa/New Zealand increasingly characterised by racism, sexism, misogyny and homophobia. They really do put pressure on us to speak up and out. Jason Ake was right to do so. Politicians can elect to mirror the John McCains of the world, or encourage and enable the illiberal tendencies in our politics ...**

# Whakatauki

Waiho i te toipoto, kua i  
te toiroa

Let us keep close  
together, not far apart