



20 April 2020

John Edwards
Privacy Commissioner
Office of the Privacy Commissioner/ Te Mana Matapono Matatapu

By email: John.Edwards@privacy.org.nz

Dear John,

Annual Letter of Expectations for 2020-21

Thank you for the substantial amount of work you and your Office have undertaken to support the Ministry of Justice on the Privacy Bill. I expect your Office will continue to remain actively involved as the Privacy Bill progresses through the House in 2020.

COVID-19 challenges

The COVID-19 threat is presenting challenges for all of us as we work to maintain services to the public, while protecting the wellbeing of our staff and meeting our legislative obligations.

I have been impressed with the level of preparedness and responsiveness of the Justice Crown entities to the challenges presented. I am interested in the implications of the pandemic on the work of your Office particularly as you work through the potential scenarios and gain more insight about public expectations under level 4. Consequently, I would appreciate being kept informed of any significant matters arising and I have asked that my officials remain in regular contact over this period to facilitate that.

Justice priorities and what this means for you as the Privacy Commissioner

My priorities for the Justice portfolio are to support a safe and just New Zealand, and to progress a programme of reform that improves the wellbeing of New Zealanders.

The role of the Commissioner is vitally important to New Zealand, in the work it does to ensure that personal information can be collected, used, stored and disclosed in accordance with the Privacy Act.

Strategic direction

In developing and shaping your strategic direction and work programme, I expect you will consider the implications of the new Privacy Bill, as it is likely to change some of the functions of the Privacy Commission and if significant, may require changes to both your SOI and SPE.

The SOI and the SPE are key instruments and serve to set out your performance intentions to the House of Representatives. It is important that they reflect on the work you will undertake, particularly in relation to the proposed changes outlined in the Privacy Bill.

The most recent version of your SOI was developed in 2017, for the period 1 July 2017 to 30 June 2021. The SOI is an enduring document with a four-year focus that must be updated at least once every three years. As three years have now passed, you will need to develop a new SOI that continues to align with Government and Justice sector priorities.

As responsible Minister, I will be looking to ensure that your 2020/21 SPE provides: annual information on each class of outputs and their cost structure, an explanation on what each class of outputs intends to achieve, how performance is to be assessed, when performance will be reported, and forecast financial statements.

I look forward to receiving your draft SOI and SPE before or on 1 May 2020.

In line with current practice, I expect you to continue to provide me with three performance reports over the financial year to demonstrate progress against pre-determined targets.

Enduring Letter of Expectations

Last year you were sent a new Enduring Letter of Expectations from the Minister of Finance and the Minister of State Services, which I have attached as Appendix One.

Through the Enduring Letter of Expectations, the Government has signaled that it expects a unified value-based government for all New Zealanders. Along with other Crown entity board chairs, you are expected to take a much broader leadership role in relation to the Treaty relationship and apply a wellbeing approach to your work.

The Minister of Finance and Minister for State Services have signaled that the Enduring Letter of Expectations will be reviewed following the passage of the new public service legislation. If an amended or new Enduring Letter of Expectations impacts on the Privacy Commissioner's strategic intentions and/or annual performance expectations, it is likely that you may need to amend the Privacy Commissioner's Statement of Intent (SOI) and Statement of Performance Expectations (SPE).

Recommendations from the Auditor-General

The Auditor-General has written to me outlining the results of the Office of the Privacy Commissioner's 2018/19 audit. I trust you are factoring into your strategic direction and work programme the Auditor-General's recommendation to consider the implications of the new Privacy Bill for the functions of the Commission and for your accountability documents.

I support the Auditor-General's recommendation and expect my officials will continue to work with you to help make progress in this area.

Governance

I would like to take this opportunity as I do each year, to reinforce expectations of your governance role. I trust you will continue to:

- monitor your performance and hold management to account,
- undertake an annual self-assessment of your performance,
- be a good employer, including lifting Māori and Pacific incomes, skills and opportunities,
- maintain a 'no surprises' approach,

- focus on strategies and processes to make sure the Privacy Commissioner achieves its performance targets, and
- function with openness and transparency.

On-going engagement

I look forward to engaging with you over the coming year and have asked my officials to work with you to arrange regular meetings at appropriate points in the accountability cycle. I will, of course, expect to hear about any emerging issues that you are considering and/or when sensitive decisions are intended to be made public.

If you wish to discuss anything raised in this letter, please contact the General Manager, Strategy, Evidence and Investment at the Ministry of Justice.

Yours sincerely

A handwritten signature in blue ink that reads "Andrew Little". The signature is written in a cursive, flowing style.

Hon Andrew Little
Minister of Justice

Copy to: Gary Bulog, General Manager, Gary.Bulog@privacy.org.nz

Appendix One: Enduring Letter of Expectations

Hon Grant Robertson

MP for Wellington Central

Minister of Finance

Minister for Sport and Recreation

Minister Responsible for the Earthquake Commission

Associate Minister for Arts, Culture and Heritage



Dear Board Chairs of Statutory Crown Entities

Enduring Letter of Expectations

This letter replaces the previous enduring letter of expectations that was published on 26 July 2012. It sets out our expectations of all statutory Crown entities. This letter should be considered within the context of the Crown Entities Act and other relevant legislation.

A unified value-based government for all New Zealanders

You and your board members are in your roles, not only because of your passion for the entity you lead and collectively govern, but because all New Zealanders need your help, your ideas and your enthusiasm.

Your Board is the steward of the Crown's ownership interest and the primary monitor of the entity's performance. We expect you to regularly and transparently report on entity performance, risks and opportunities to your Minister. In doing so, we expect you to have a constructive working relationship with your monitoring department.

We expect the way your Board goes about its work is grounded in acting in a spirit of service to everyone in our community and with integrity and care. This means you are open and transparent, managing the public's money and assets wisely and doing the right thing in all circumstances including managing conflicts.

As State sector employers we expect you to work with your agency's chief executive and management team to:

- ensure your workplaces are safe;
- ensure your workplaces are diverse and inclusive;
- make substantive progress to close any ethnic or gender pay gaps and narrow the gap between the highest and lowest earners in the workplace; and
- ensure that employees have a voice in their workplace, including through effective and productive relationships with any relevant unions.

We also expect you will continue to take account of the Government's Expectations on Employment Relations in the State Sector.

As a general rule, you should inform your Minister promptly of matters of significance within his or her portfolio responsibilities, particularly where these matters may be controversial or may become the subject of public debate.

Supporting future-focussed Māori Crown relations

We expect your entities to embody the Government's good-faith and collaborative approach to Māori Crown relationships by:

- engaging appropriately and often with Māori on relevant issues;

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- pursuing further opportunities for partnership with Māori entities and businesses;
- building staff Māori cultural capability including knowledge of tikanga Māori, te ao Māori, New Zealand history and how to address institutional racism;
- improving the Treaty-consistency of policy and practices (for example, considering where whānau-centred policies can be used); and
- supporting the Maihi Karauna by promoting and supporting the revitalisation of te reo Māori.

Contributing to improving wellbeing

New Zealand needs a high performing public sector that is strongly focussed on improving current and future wellbeing. Although there are many definitions of wellbeing, we see it as people having the capabilities to live lives of purpose, balance and meaning to them.

Our desire is to embed a wellbeing approach across the public sector. All public sector agencies contribute to achieving our wellbeing vision in some way. We have identified three elements of a wellbeing approach that you should consider as you look at your direction and contribution and to be reflected in your external reporting. The three elements are:

- Taking a whole of government approach – stepping out of the silos of agencies and working seamlessly together to assess, develop and implement plans to improve wellbeing.
- Looking at intergenerational outcomes – focussing on meeting the needs of present generations at the same time as thinking about the long-term impacts on future generations.
- Moving beyond narrow measures of success and considering impacts, both positive and negative, across a broader set of areas.

A specific example is the recognition that the current and future wellbeing of New Zealanders is reliant on a stable climate and living within ecological limits. We expect the State sector to lead by example by taking active steps to reduce greenhouse gas emissions, improve energy efficiency and reduce waste outputs.

As Crown entities your performance plays a critical role in supporting and improving the wellbeing of New Zealand through what you deliver and in how you work to deliver it.

Public Service Reform

We are in the process of modernising the public service, including reviewing the public finance system to achieve our wellbeing objectives. You will hear more on these reforms as they progress and have the opportunity to engage on their implementation. Our plan is to review this letter following the passage of the new Public Service legislation.

Yours sincerely



Hon Grant Robertson
Minister of Finance



Hon Chris Hipkins
Minister of State Services