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**Government communication
in New Zealand:
changing roles and conventions**

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ABSTRACT

A brief study of democratic theory as it relates to public participation and government communications within a New Zealand context. A literature review identifies the traditional communications conventions pre-state sector reform and a survey of state sector communications managers reveals the conflict between this traditional approach as it is articulated, and actual practice in the post-state sector reform environment. A new convention is presented based on three divisions within the core public service: primarily policy; primarily operational; and mixed objective. Communications conventions for state-owned enterprises, Crown entities and Crown research institutes are also identified.

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CHAPTER ONE

—Introduction

Central to this thesis is the question: how should a democratic government communicate with its citizens? A study of democratic theory focusing on the normative principles of public participation in policy-making, provides some insights to this. Additional issues are raised, such as to what extent should a government communicate, what methods should it employ and to whom should it communicate? In order to address these further questions, this thesis explores the concept of 'the public interest', public opinion, the value of public education and the role of the various institutions of the state in communicating with the public. This theoretical discussion is found in Chapter Two.

In Chapter Three New Zealand's democratic system of government and important constitutional conventions are briefly analysed in the light of the theoretical considerations discussed in the previous chapter. Particular attention is paid to the views of leading constitutional writers about the appropriate roles and relationships of the various participants in our democracy—these include ministers, officials, and the media. The key conventions of ministerial responsibility and public service anonymity are reviewed, as is the impact of the Official Information Act 1982 on these conventions. A theoretical description of government communications conventions *before* state sector reform is presented on the basis of the literature.

The major elements of New Zealand's 'bureaucratic revolution'¹ led by the fourth Labour Government (1984-90) are then considered, in particular the changes to the machinery of government, along with the impact of these changes on the conventions. The relationship between ministers and officials under the State Sector Act 1988 and the Public Finance Act 1989 is explored. A survey, conducted among 86 state sector communications managers is presented and the current communications conventions identified. The conclusion reached in Chapter Four is that the radical restructuring of government has created a reduced state sector

and reorganised the institutions of the public sector bureaucracy into three categories, each with different objectives: core policy agencies; core operational agencies; and a category in which agencies have mixed objectives. Overlapping all agency types are those agencies with statutorily defined functions. The literature review identifies an additional 'policy advocacy' agency type. The existence of such an agency type is tested against evidence obtained from the thesis survey which concludes with a rejection of this agency categorisation. New conventions for government communications which take into account the three categorisations outlined above, are presented.

Tension results from the divergence between the conventions articulated by the traditional conventions and the new conventions as they are practised. Chapter Five identifies the following communications issues which arise out of this situation: confusion within the state sector on roles for officials; need for more specific guidelines; market failure and reliance on the media to communicate policy; need for funding of public awareness outputs; perceived reduction in public confidence of public sector independence and fears of politicization; and the impact of the Mixed Member Proportional (MMP) system of representation.

Chapter Six concludes by briefly drawing together the arguments of the thesis and presents a proposal designed to address further some of these issues.

Endnotes

¹ Boston *et al* Reshaping the State: New Zealand's Bureaucratic Revolution

CHAPTER TWO

—Democratic theory and government communication

DEMOCRACY

—What is it?

Most New Zealanders would say that our country is a 'democracy', but might be divided in their reasons for saying so. What are the critical features a system of governance should possess in order to be called democratic? An influential writer on the subject, Barry Holden,¹ suggested that virtually everything *political* has been called 'democracy' or 'democratic', and that definitions will vary along with people's values. Holden described the two main bodies of democratic theory as 'empirical' and 'normative'.

Empiricists concern themselves with how democratic systems actually operate and the distribution of power within them. Four branches can be identified: *pluralist* (Bentley, Dahl, Truman); *elitist* (Hunter, Michels, CW Mills); *neo-pluralist* (Bell, Etzioni, Galbraith, Sartori); and *Marxist* (Habermas, Miliband, O'Connor).²

Holden was critical of the empiricists and claimed that a common fallacy occurred among those who defined democracy. This is the belief that the meaning of 'democracy' can be, "...found simply by examining the systems commonly called democracies."³ Holden's view was that a democracy is, "...a political system of which it can be said that the whole people, positively or negatively, make, and are entitled to make, the basic determining decisions on important matters of public policy."⁴ It is significant that this definition includes the concept of public participation in determining public policy. Participation is a key concept in normative democratic theory and is discussed on page 11.

Normative democratic theory is concerned with the role the public should play in the political process, and is most clearly defined by

Benjamin Barber as either radical ('strong') democracy, or liberal ('thin') democracy.⁵ Under 'thin' democracy, the public merely choose their leaders during elections, and play little part in agenda setting or public policy-making.

Representative or 'thin' democracy, according to Barber, is incompatible with freedom, equality and justice—political values which depend on self-government and citizenship.⁶ Under such regimes, citizens:

...become subject to laws they did not truly participate in making; they become the passive constituents of representatives who, far from reconstituting the citizens' aims and interests, usurp their civic functions and deflect their civic energies.⁷

Barber concluded that 'thin' democracy is not, in fact, very democratic and advocates 'strong' (participatory) democracy.

In 'strong' democracies politics is not something done *to* the public by elites, but something done *by* the public as a whole. It literally involves self-government by the people instead of representative government. Consultation and active public participation in public policy-making is a feature of 'strong' democracies.

Illuminating Barber's analysis within a New Zealand context political commentator Colin James⁸ has argued that the policy changes undertaken by the fourth Labour government (1984-1990) and the successor National government were undemocratic. He stated that the true democrat in government will only do what the people ask to be done:

Very few people 'voted' in any sense for the 1984-92 programme of radical change. Instead, a bunch of elite radicals went their own way unasked, using the cloak of democratic formality—their election to office in an antiquated and unrepresentative winner-take-all system—to claim they were acting legitimately.⁹

James suggested that democrats would argue that the architects of New Zealand's policy changes should have been honest about their intentions and, "...ought to have proceeded with more sensitivity to public

opinion.”¹⁰ Public opinion is a critical element to consider in the democratic process and is discussed more fully on page 22.

Another New Zealand political commentator, Richard Mulgan, attempted to define ‘the people’ within a bicultural context of Maori and Pakeha.¹¹ He advocated a pluralist view of society, in which ‘the people’ is defined differently for different issues. In many cases, interest groups (and/or pressure groups) may be the appropriate grouping to decide democratically on any issue. Mulgan assumed the ‘best judge’ principle, whereby the individual is deemed to be the best judge of her or his own interests. The question of the public interest is discussed further on page 17.

Democratic debate in New Zealand appears to largely favour the normative ideal of strong democracy, although in reality the nature and extent of public participation varies.

—Public participation

Empirical democratic theory rejects the notions that participation is logically or empirically necessary to democracy, and finds that something akin to the law of diminishing returns applies—excessive public participation can even be harmful to democracy.

The elite empiricists represented by such writers as Joseph Schumpeter, claim that the people are capable of nothing but choosing leaders, and that most people lack the competence or desire to participate in government. In this analysis, elites govern, but do not dominate, being ultimately controlled by elections—a constitutional safeguard. Philip Green describes the act of voting as, “...an act of system affirmation rather than significant participation in the political realm.”¹²

Normative theories of public participation do not generally disagree on its value to democracy, but they do differ in terms of justification and the degree of participation required.

Writing in 1987, USA political science academic Jack Nagel separated the benefits of public participation as developed in normative democratic

theory, into three types: *instrumental* (utilitarian); *developmental* (educative); and *intrinsic*.¹³

The *instrumental* argument suggests that participation is a means to achieve other goals—not an end in itself. It is a form of communication from the public to its leaders.

Educational or *developmental* effects of participation mean the individual can develop new values, attitudes, skills, knowledge and beliefs. Nagel claimed that theorists who believed in this 'character-forming' effect, "...tend to be dissatisfied with people as they are but optimistic about the possibilities for their improvement."¹⁴ The benefit of educative effects is that they can enhance administrative efficiency.

Individual gratification, according to Nagel, is an *intrinsic* effect of participation, and a measure of the special benefits to the individual, whereas developmental effects are largely a measure of the benefit to society.

Geraint Parry *et al*, writing about a British study in 1992, provided four justifications for participation: instrumental; communitarian; educative; and expressive.¹⁵ *Communitarian* theory suggests that participation is motivated by a concern for the community. *Expressive* participation is an explanation of why people may participate without an expectation of directly achieving a goal (instrumental), or out of community concern (communitarianism). Their actions are an expression of their feelings or a display about their stance on particular issues, such as attending a rally or saluting a flag. Parry's definition of public participation was: "...taking part in the process of formulation, passage and implementation of public policies."¹⁶

The radical ('strong') and liberal ('thin') split in normative democratic theory suggests different justifications for public participation.

Rousseau and JS Mill embody the normative principles of radical democratic theory. Radical democratic theory, as explained by Holden¹⁷, requires the individual to actively engage in policy *formulation*. Rousseau held that participation is valued for its own sake, because it allows the individual to fully develop, and strengthens the bonds to the

community. Disagreeing on the degree of participation required in a democracy, Rousseau and Mill emphasised the benefits of participation in contributing towards the development of a responsible and moral personality.¹⁸

Liberal democratic theory is more concerned with individual rights and freedoms and protection against the power of the state and is best articulated by Schumpeter and Friedrich Hayek.

According to Barber, in a 'strong' democracy individuals are linked, "...less by homogeneous interests than by civic education."¹⁹ Barber expressed the educative justification that community grows out of participation, while at the same time making it possible: "...civic activity educates individuals how to think publicly as citizens even as citizenship informs civic activity with the required sense of publicness and justice."²⁰ According to Barber, numerous surveys and polls in the USA, "...suggest over and over again that while citizens distrust politics in the abstract, they desire concrete participation and work to enlarge the scope of that participation when they have once experienced it."²¹ New Zealand's vote to change the electoral system from First-Past-The-Post (FPP) to Mixed Member Proportional (MMP) representation in 1993 and the advent of Citizens' Initiated Referenda could be interpreted in support of this argument.

Criticisms of participatory democracy presume that the masses will pursue private interests (utility-maximising behaviour) once empowered: the 'tyranny of the majority'. This presumption works against the Rousseauistic concept of 'the general will', whereby individuals can identify and pursue collective interests that may not in the short-term be in the individual's best interests. Brian Barry convincingly argued that Rousseau's 'general will' was in fact the 'public interest'.²² The pursuit of community goals or the public interest can be analysed in terms of individuals seeking to maximise their long-term welfare through stable government and the provision of public goods. The existence of 'free-riders' works against this theory. Barber postulated that free-riders can only exist in a 'thin' democracy, "...where obligation is the provisional consequence of a bargain."²³ In a strong democracy citizens understand their freedom as a consequence of their participation

in decision-making: "To ride for free is to betray not others or an abstract promise but themselves."²⁴

The philosophical discussion of the radical participatory democratic theorists provides a picture of an ideal state of affairs. There are individual and community advantages in having a democratic system which encourages public participation in policy-making. Given the nature of individuals and the trade-offs they must invariably make each day, such an ideal state of full public participation as the radical democratic theorists suggest, is probably not achievable—it may not even be desirable, given the empirical theorists' view that instability may be a consequence. Certainly technical efficiency may not be achievable.

Holden's personal view was a pragmatic one—that, "...most people simply do not have the time, energy and knowledge necessary for a detailed and continuous concern with politics. And it is unreasonable to suppose that they should have."²⁵ He also considered the undesirable instability that would occur with intensive participation, as an important argument against it. Holden concluded, in a liberal mode, that there should be more provision for small-scale partial participation, consultation and institutionalised forms of protest.²⁶ Such provisions, coupled with constitutional safeguards, would protect the public from the 'tyranny of the majority'.

Holden's analysis simply accepted that people do not have the time, energy and knowledge to participate. He did not question whether there was a role for government in *creating* time, *providing* incentives to participate, or in *providing* knowledge in appropriate formats. He fell into the same sort of definitional fallacy in this regard as the theorists he criticises. By pointing out the existence of these behaviours, he accepted them as evidence of the ways things are *and* had to be.

New Zealand political philosophers tend to support the radical democratic theorists in their quest for strong democracy. Perhaps there is a cultural element at work here—what may be accepted as the norm, or a minimum standard in New Zealand, may not be directly translated into other societies' legitimate expectations. The size of New Zealand may also be a factor in determining any generally accepted cultural beliefs,

although the desire for 'strong' democracy may simply be yet another myth, ingrained into the New Zealand literature.

Without falling into the definitional fallacy, it is pertinent to note that several political writers accept the principle of increased public participation as a legitimate goal for governments to pursue. New Zealand public policy academic Bob Gregory stated: "Calls for wider participation in the decision-making process and for greater accountability...are appeals which can be denied only by those who lack any hint of democratic sensibility."²⁷ And while a Member of Parliament, Gary Knapp stated: "To maintain even a semblance of democracy we have to encourage more active participation by the people in their political system."²⁸

Arguing in 1994 that New Zealanders want the state back in their control, Andrew Sharp, a political scientist, contends that picturing people simply as consumers and not as citizens is a mistake.²⁹ He challenges public choice³⁰ theory by saying that people do not regard themselves as simply, "...utility-maximising individuals but as irreducibly members of real collective bodies: of families, of trades and professions and of ethnic groups..."³¹ This leads to the pursuit of collective as well as individual interests and to a perception of their role as members of the collectivity—the state. Sharp argues that by virtue of this membership, New Zealanders are entitled to participate in the state's decisions. Without providing evidence of this claim, he says the public want a return to deciding what the state should do.

Mulgan's view of participation in 1989, was predicated on letting individuals decide which issues they were interested in pursuing. Provided the political system allowed equality of political opportunity, the appropriate constituency for each issue would always emerge.³² This concept raises some issues canvassed by Mulgan, such as individuals with psychological disorders, or strong emotional reactions to issues. In resolving these, Mulgan proposed that legitimacy of interest be tested. Legitimacy would include the individual having a material or financial interest at stake, or the issue having an effect on their quality of life. Mulgan failed to cover the question of how to ensure that all individuals with potential legitimate interests are aware of, or informed about,

particular issues likely to affect them. Participation cannot take place if individuals remain ignorant of policy proposals. Mulgan also suggested that where a number of different groups of people have different degrees of interest in an issue, the degree of power exercised by each group should vary accordingly.³³ The public participate in policy-making in a variety of ways, including representations to their MPs, through their involvement in political parties, or through established or *ad hoc* interest/pressure groups.

In an extension of arguments in favour of each individual determining their own existence in the fullest way possible, Mulgan suggested that people who are politically active may be, "...living a fuller or more admirable type of life than those who are quite content to be passive and let others make decisions for them."³⁴ Mulgan countered the liberal argument that people are essentially apathetic and not interested in politics, by pointing out that participation in politics is in practice a trade-off among other activities an individual may value, such as family life, hobbies or interests. In essence, for some individuals, the marginal benefit of participation is not equal to the marginal cost of giving up some other activity. The key concept here is that individuals at least have the opportunity to choose to make these trade-offs, and that lack of participation *per se* is not indicative of lack of interest, or apathy.

There is a pragmatic view that participation facilitates conditions for technical and cost efficiency in government administration, as well as enhances supportive relationships between citizens and the state. William Robson, in a much-quoted 1964 essay, perhaps summed it up most succinctly in his rejection of liberal democratic theory, where citizens are represented in the legislature and administered by the executive:

We now realise that this is insufficient in a democracy to ensure mutual understanding between the governors and governed; and that without such understanding a high degree of popular participation is difficult to achieve. A widespread knowledge of the aims and purposes of government is necessary to secure consciousness of consent and popular support. Moreover, knowledge by the people of what the

government wants them to do is essential for the success of much public administration.³⁵

He also advocated extensive public participation as a safeguard against manipulation by political leaders using techniques of mass media advertising and propaganda.³⁶

Sir Frank Holmes (Chairman of the Planning Council) and John Martin (senior public servant) touched on this point in their 1981 essay, describing it as the tension, "...between *efficient* government, which makes decisions quickly, and *public participation*."³⁷

In the New Zealand context, the key democratic aspect of public participation is that it should be *informed* participation. Very few democratic theorists draw any distinction between the value and purpose of public participation *per se* and that which is informed. This thesis accepts the validity of public participation in the pragmatic approach asserted by WA Robson, and as appropriate to the New Zealand context and cultural expectations of government as articulated by Mulgan, Gregory, and Holmes and Martin. Accepting the essentially radical approach for increased public participation and 'strong' democracy does not exclude the application of a liberal ('thin') democratic approach to particular issues. There is no evidence to suggest that there is an accepted New Zealand convention that government can only operate in a strong democratic mode. Whatever the level of desired public participation, it leads to the question of the role of the state in facilitating an informed public. This question is discussed on page 29.

—*The public interest*

Writing in 1960, Glendon Schubert explained that the, "...concept of the public interest lies at the heart of democratic theories of government."³⁸ He described the theorists as being either universalists or particularists, noting the need for a middle-level theory. He outlined three theories: *rationalist*, *idealist*, and *realist*: "The Rationalists are propublic, proparty, and anti-interest group. They postulate a common good...the common obligation of all public officials is faithfully to execute the popular will."³⁹ There are two divisions within the *rationalist* theory: *party* rationalists, who see a two-party system as expressing the public will; and *popular*

rationalists, who would consult public opinion directly in order to discover the people's will.

According to Schubert: "Idealists are propublic, antiparty, and anti-interest group."⁴⁰ *Idealists* do not support the public's perception of their interests, but their own perception of the public's interest based on a higher, moral, natural law. Schubert summed up this theory: "The public interest, of course, is what the elite thinks is good for the masses. Idealist dogma, as dogma, is basically antithetical to democratic theories of governance."⁴¹ Such theory appears to have its origins in the Platonic notion of a guardian class which is better able to perceive and act on such higher moral values.

Realists are, "...pro-interest group. It is not accurate to say that they are antiparty or antipublic."⁴² This is because political parties and the various constituent parts which make up the public become defined as interest groups. Realists define the public interest as the political compromise reached between these various competing and conflicting interest groups (similar to Charles E Lindblom's notion of 'partisan mutual adjustment'⁴³). They advocate an essentially incrementalist approach to change using a process of full consideration to ensure that decisions made are most likely to be in the public interest.⁴⁴

Schubert's criticisms of public-interest theory were two-fold: that no theory described the relationship between the public interest and official behaviour in a way that could be empirically validated; and that no theory offered an operational guide for public officials in decision-making. Schubert stated, "...that there is no public-interest theory worthy of the name and that the concept itself is significant primarily as a datum of politics."⁴⁵ He also found that there was 'no operational sense' to the concept.⁴⁶

Despite Schubert's analysis, politicians and political commentators continue to make reference to 'the public interest' with very little definition as to what definition they favour, as if it were some universally-accepted principle everyone is familiar with. For example Barry, in discussing models of constitutional choice, described the electorate choosing representatives on the basis of their presumed

devotion to the public interest⁴⁷ and in his criticism contended that neither electors, politicians or experts, "...have the postulated combination of the desire to pursue the public interest and the knowledge of the policies necessary to attain it."⁴⁸ Despite his familiarity with Schubert's work, Barry still made the assumption that the public interest is universally defined.⁴⁹

The public interest has been incorporated into the New Zealand legal system in specific statute (such as section 4(c) of the Official Information Act 1982) and in case law such as a defence to breach of confidence⁵⁰, contempt of court⁵¹ and defamation⁵². Defining the public interest has been no easier for the judiciary. Lord Denning has provided this definition:

Whenever a matter is such as to affect people at large, so that they may be legitimately interested in, or concerned at, what is going on; or what may happen to them or to others; then it is a matter of public interest on which everyone is entitled to make fair comment.⁵³

This is an operational definition and one which provides rights to the public (and in particular to the news media). It does not offer an explanation as to the *type* of subject matter that may or may not be in the public interest, merely the effect of such matters on the 'people at large'. Distilling this into more general principles, it would appear that in order to uphold such a concept as the public interest, there is a positive duty on the part of decision-makers to inform the public at large on matters likely to affect them. In this way, the entitlement of each individual to make fair comment can be given effect.

The practice of judicial review (Judicature Act 1908) which focuses on official decision-making, has at its core the principles of natural justice. This requires fair consultation with the affected public and implies imparting of sufficient information in order to enable such consultation to be well-informed. These principles are also established within specific statute such as the New Zealand Bill of Rights Act 1990 (s.27(1)), which also provides for fundamental justice (s.8), and in such legislation as the Resource Management Act 1991.

In his view of the New Zealand constitution, KJ Scott placed a more active role on the obligation of government: "A government's duty is to do what it conceives will promote the public welfare, not to ease its conscience by putting into practice ideas that it has outgrown."⁵⁴

Various New Zealand commentators have cited the public interest within their discussions of the New Zealand political culture. Mulgan claimed that an area of inequality occurs, "...in the balance of power between the general or common interest and sectional interests."⁵⁵ He ascribed responsibility to the government for upholding the *public* interest when it clashes with *sectional* ones. The incentive for politicians to do so is their desire for re-election. Voters are not always motivated by the general interest, being concerned with their own individual or regional interests as well. Mulgan stated that there is a weakness in government acting on behalf of the public interest, "...not so much due to any lack of legal or physical power; it is rather a question of the values which determine what is politically acceptable or unacceptable."⁵⁶ Given contemporary economic values in New Zealand, "...the public interest is best served by competition and entrepreneurial initiative unhampered by misguided government attempts to 'pick winners'."⁵⁷

John Roberts suggested in 1987 that state servants and their ministers operated, "...in conditions of constant apprehension about the next crisis of confidence [which compels them]...to reach decisions and to take actions which may be defended and justified in the public interest."⁵⁸ Presumably they were all assumed to share a universal appreciation of the public interest.

Dr Probine, then Chairman of the State Services Commission (SSC), in submission to the Standing Orders Committee of Parliament in 1984, made a connection between the *disinterested* role of public servants and the public interest: "Any procedure which may cause public servants in future difficult situations to look primarily at self protection is, I suggest, damaging to the broader public interest."⁵⁹ In his 1983 leaflet issued to public servants, Dr Probine made it clear that public servants were not the best-judge of the public interest. This essentially dispelled, within the New Zealand context, the idealist view of the public interest as some universal truth or higher law. Instead, a more pragmatic approach was

taken and one which fits into the constitutional framework, "...because they derive authority from the minister, public servants cannot take upon themselves the duty of deciding that the public interest is something other than the Government sees it to be."⁶⁰ The State Sector Act 1988 can be viewed as reinforcing this relationship.

In 1988 Martin outlined the history of the previously-held view of the public servant as guardian of the public interest. He explained that in most of post-war New Zealand the public interest could have been defined in these terms, as well as by political consensus, "...in welfare state terms featuring equality of access to public services, full employment, fair pay and a premium on stability."⁶¹ Discussing the break-up of this post-war consensus, Martin commented that: "The language of the public interest remains."⁶² He found that public servants subscribed to a view of the public interest being above sectional interests.

In his 1991 work, Martin found that public servants could incorrectly believe that they had a higher duty other than to government, and that they could determine the definitional boundaries. Martin disagreed with this perception and concluded that in cases of concern, rather than act of their own volition, it was the duty of public servants to *remind* the minister of the public interest.⁶³ In his 1994 analysis of state sector reforms, Martin also claims that the widespread adoption of public choice theory and principal agency⁶⁴ theory denigrates notions of the public interest and trust as the basis of governmental relationships.⁶⁵

In his 1987 memoirs, John Robson (not to be confused with WA Robson cited earlier), previously a New Zealand permanent head, linked another important doctrine to the public interest: "Presumably the central justification for ministerial responsibility must be the public interest..."⁶⁶ Chapters Three and Four discuss this concept of ministerial responsibility.

The Royal Commission on Social Policy, reporting in 1988, considered it was part of the media's role to serve the public interest. It concluded its discussion of deregulation and market forces by claiming: "...a commercial broadcasting market will neither produce socially equitable ends, nor the broadest set of conditions for the public interest."⁶⁷ An

editorial in the Evening Post commenting on the launch of the Newspaper Publishers' Association's book Free Press, Free Society, presented the media's (in my view outdated) interpretation of its role in protecting the public interest against the government:

By publishing the book the NPA has shown it has the nous to represent public interest and advance the fragile status of the information industry when it could just as easily take an accommodatory line with governments and palatable-news theorists.⁶⁸

Further analysis of the media's role in New Zealand is found in Chapters Three and Four.

—*Public opinion*

All governments, according to American political scientist VO Key⁶⁹, concern themselves with public opinion. The linkage between the two is primarily the electoral process.

In differentiating between public and private opinion in 1961, Key favoured, for public opinion, the working definition of, "...those opinions held by private persons which governments find it prudent to heed."⁷⁰ This opinion may be shared by a small or large grouping of people and government may or may not act on it. The public is further subdivided into the mass (or *latent*) public, and the *attentive* public. The composition of the public will vary according to the public policy issue under consideration.

Key placed emphasis on freedom of speech and discussion in formulating public opinion and, "...the free availability of information about public issues and public questions"⁷¹. In a democracy, according to Key, private opinion may have an impact on most major public actions and the principle of enhanced participation was advocated: "For the maximum participation of the public (or the publics) a practice of disclosure or notice of prospective actions and of announcement of the considerations underlying actions must be followed."⁷²

Latent opinion is extremely difficult to judge and is often only aroused by a particular action of government. This may be why one of the

techniques of politics, the 'calculated leak' or 'trial balloon' is used so frequently by governments to test public opinion before committing publicly to a particular policy. Key cited reaction to speeches as another method that politicians use to gauge public opinion. This is less of an occurrence in the telecommunications age of the 1990s, than at the time of Key's writing in 1961. Politicians now use mass media exposure to present their messages to the public and do not generally expect feedback from the audience except second-hand through subsequent media coverage and discussion by elites.

Preoccupation with opinion polling by politicians can lead to misunderstanding public opinion, especially when survey design and analysis is easily biased. WA Robson suggested that surveying is a valuable device for bringing the citizens and their government into a closer and more harmonious relationship. However, he cautioned that the methods employed should be impartial and disinterested, citing an example of a survey being used, "...to confuse the public in order to serve sectional interests."⁷³ In New Zealand, nationwide surveys of the general public conducted by public sector agencies must comply with the Statistics Act 1975 if the results are to be published. In the 1991 health reforms survey it appears the Act was not followed, because according to Joe Atkinson, a political scientist operating in media studies, "...the Government Statistician later raised doubts about the methodological probity of the Heylen survey..."⁷⁴ In general, the Statistics Act 1975 is a useful check on the public sector's inappropriate use of nationwide surveys, provided they are aware of its provisions.

An additional method of assessing public opinion, apart from the number of letters received each day from constituents, is the reaction from pressure and interest groups to media releases, and the reaction of the media themselves. These are essentially 'reactive' methods of identifying public opinion.

Holden cited the Greek viewpoint that the power of a community resides with the common 'man' and his opinions. Democracy becomes possible through majority rule expressed by these opinions. With wisdom spread throughout the community, wise policies can be obtained by involving everyone in the decision-making process.⁷⁵ Holden's own view of

democracy was that, "...genuine decision-making by the people entails genuine choice, which in turn entails the existence of opportunities for the advocacy and effective presentation of different viewpoints."⁷⁶

In evaluating a national referenda programme, Barber identified resistance resulting from fear of 'popular rule' and in particular, fear of elites who may influence public opinion with money and other forms of economic power and social control.⁷⁷ The New Zealand experience with two powerful lobby groups in the 1992 indicative and 1993 binding referenda on electoral reform could be analysed as examples of this. The distrust of referenda and the public opinion so exposed is also possibly demonstrated in the 1993 legislation which allows for citizens' initiated referenda, the results of which are *not binding* on government.

WA Robson also touched on the power of elites in controlling opinion polls discussing:

...the dangers of allowing the voters to become befuddled with pseudo-scientific statements about public opinion based on highly tendentious questions designed to evoke prejudice on the part of the elector in order to serve the purposes of business interests.⁷⁸

Barry outlined two models of government: *power-diffusing*, whereby information is increased by *ad hoc* bargaining with interest groups on most issues; and *power-concentrating* systems, where information is economised and citizens' efforts are concentrated around elections. He provided justification for the latter by identifying the public's ability to vote for *outcomes* as opposed to *outputs*:

...more importantly perhaps, a power-concentrating system economizes on information and effort by enabling people to use their influence not for or against certain *policies* but for or against certain *states of affairs*.⁷⁹

An emphasis on seeking public opinion and/or consultation on individual policy questions is therefore not required.

In a New Zealand context, KJ Scott identified three periods in which the authority of public opinion was very different,⁸⁰ and a fourth has now become apparent. Until about 1890, the dominant view was that public

opinion was entitled to consideration, but should not fetter the legislative discretion of Parliament. In a second period from about 1891 to 1912, the government claimed a broad right to legislate in accordance with the general policy approved by electors. A third period from 1912 until the time of Scott's writing in 1962, was that the electoral platform and legislation enacted should closely correspond—the main difference being in the interpretation of electoral results. An earlier writer on the subject, Polaschek, supported this view by linking the retention of electoral support to the government's ability to stay in step with public opinion.⁸¹ A fourth period commencing with the fourth Labour government in 1984 can be said to have altered this perception of the value placed on the influence of public opinion on the legislative process.

In his 1989 analysis of political power, Mulgan identified the motivations behind politicians responding to public opinion. He found that, "...electoral defeat is a constant and powerful motive in politicians' minds and they are continually modifying their behaviour for fear of adverse public reaction and eventual loss of votes at the next election..."⁸² He also stated that the authority of public opinion had an impact. Mulgan did not question the quality or validity of such public views, or whether they were based on full and accurate information. Although he claimed that within the New Zealand context this dynamic was taking place and that public policy was being affected by public opinion, Mulgan did not question whether the electorate was well-informed. The role of the state in providing an opportunity for public education must be analysed, if the cause-and-effect nature of public opinion on public policy is accepted.

Commenting on the very current low measures of public confidence in Parliament and the major political parties, James quoted from former Cabinet Minister Hon. David Caygill, who confirmed that a political price was paid by the Labour Government in the 1980s for going beyond the limits of public acceptance in some reforms.⁸³ James identified the overriding issue for the 1990s, as mending the rift between the public and policy-makers. He found that the public, "...remain to a large extent disconnected from the policy-makers."⁸⁴ This implies that the value of public opinion has lost its currency and supports the claim of a fourth era (post-1984) in political response to public opinion in New Zealand.

Les Cleveland, writing in 1972, claimed that in New Zealand, "...government is largely carried on by means of the persuasion and manipulation of public opinion or whatever its convenient substitutes might be."⁸⁵ He detailed the role of pressure groups in providing a channel for public opinion to be heard.

In 1978 Mike Minogue, then a Member of Parliament, suggested that public opinion was a check on the executive's power. High-pressure legislation designed to maintain Parliament in a subservient role, "...is a formality only to be prevented by the strength of interested public opinion and not by parliamentary opposition."⁸⁶ He differentiated between public opinion *per se* and *informed* opinion. Informed opinion can be the only real check on power because, "...if the public or the opposition is not well-informed or has little time to become well-informed and to evaluate proposals, it is unlikely to offer serious resistance."⁸⁷

In 1984 Knapp picked up the theme that Parliament should reflect the will of the people and be more responsive to public opinion. He asserted that: "Parliamentary democracy can function adequately only if the people and their elected representatives are fully informed."⁸⁸ An advocate of public participation, Knapp believed this would only happen if people were, "...able to formulate educated opinions on vital questions."⁸⁹

In 1987 while also a politician, constitutional lawyer Geoffrey Palmer listed one of the main checks on the decision-making power of New Zealand governments as the political requirement that: "Government must take into account public opinion."⁹⁰ He also later stated that the public have a direct relationship with the executive because public opinion was a significant factor taken into account by the executive when decision-making.⁹¹

Martin similarly pointed out in 1988, that it was good administrative practice for public servants to be aware of public opinion and to consult with groups affected by their activities.⁹²

GOVERNMENT COMMUNICATION

—Public education

Public ignorance of both the political process and specific public policy proposals is a significant concern in democracies with a strong focus on public participation. Holden pointed out that statistical studies of voting behaviour have apparently overwhelmingly shown that, "...electors are largely ignorant of, and uninterested in, the issues at an election and the policies put forward by the parties...and...they participate little in politics."⁹³ Voting behaviour is largely irrational, as it is not motivated by concern with, and knowledge about, the issues and policies. On this basis it could be concluded that the outcome of elections, and therefore the broad determination of public policy, is determined by floating voters who vote rationally. Rejecting this argument, Holden cited a study which found floating voters to be *less* rational than other voters.⁹⁴ Holden showed that these studies did not support the radical democratic view that public policy is determined by the broad mass of people at elections. Instead public policy is determined through participation of specific interest groups. Given this, those likely to be affected by, or interested in, each issue should be identified and informed in order to ensure that rational democratic decision-making does occur.

Key described Walter Lippmann's analysis of the 'phantom public' as demolishing any illusion that the public could be regarded, "...as an omniscient and omniscient collectivity equipped to decide the affairs of state."⁹⁵ Even if an individual were willing to devote spare time to considering public policy questions, "...the information available to him was both inadequate and unenlightening."⁹⁶ Key outlined the denial of public information as denying the opportunity for meaningful criticism of public policy.⁹⁷

Green contended it would be excessive to say that citizens make irrational voting choices, suggesting the business cycle-sensitive model as the best predictive tool for national elections—a view rational-choice theorists are likely to agree with. He also stated that the mass market imposed by television is central to the field of information and education, and Dahl's central rule about the equal citizen opportunity to be informed between

elections.⁹⁸ Dahl added, as a third criterion to the democratic process, 'enlightened understanding':

*Each citizen ought to have adequate and equal opportunities for discovering and validating (within the time permitted by the need for a decision) the choice on the matter to be decided that would best serve the citizen's interests.*⁹⁹

The principle of the individual as the best-judge of their own interests underlies this criterion, as does the concept of utility-maximising behaviour, and the value of public participation in the policy-making process.

Barber criticized the liberal proponents of 'thin' democracy who believe that public participation is inefficient, and that representatives are the best-judge of the public's interests. He claimed that this merely provided the *insignia*, but not the *tools* of citizenship and convicted the public of incompetence:

Social scientists and political elites have all too often indulged themselves in this form of hypocrisy. They throw referenda at the people without providing adequate information, full debate, or prudent insulation from money and media pressures and then pillory them for their lack of judgement.¹⁰⁰

He later commented that: "Referendum and initiative processes divorced from innovative programmes for public talk and deliberation fall easy victims to plebiscitary abuses and to the manipulation of money and elites of popular prejudice."¹⁰¹ Clearly Barber was suggesting that in a 'strong' democracy, it is government's responsibility during referenda to provide adequate information, conditions conducive to full debate and some form of control over powerful elites and incorrect reportage.¹⁰²

WA Robson explained that communication between the governors and the governed was not about simply promulgating a new law or publishing regulations:

...but of securing widespread knowledge of, and participation in, elaborate measures affecting agriculture, industry and trade; research programmes; health campaigns, town and country planning schemes; educational programmes; highway and traffic improvements, and many other governmental activities.¹⁰³

The task of officials to inform the bureaucracy, politicians and the public is carried out through intelligence, information and public relations services, according to Robson.¹⁰⁴ The information required is two-way, with an increasing need for knowledge about the people in such things as demographics, family structures, mortality rates, age distributions, employment, savings and incomes, insurance etcetera. Intelligence on foreign experience was seen as vital by Robson, as well as the funding of research projects.

Government information services use all communications media, including the press, broadcasters, films, exhibitions, pamphlets, books, reports, lectures, advertising and so on. Robson related successful external communications to successful internal communications. He defined public relations as moving away from the realm of factual material to persuasion, propaganda and a conscious attempt to influence. Examples provided included: encouraging pregnant women to make use of maternity benefits; warnings against cigarette smoking; anti drink-drive campaigns; anti-litter projects; immunization campaigns; and so on.¹⁰⁵ He found the use of public relations to be one of the most effective methods of bringing public authorities into closer touch with citizens and that two-way channels of communication should be established to enable the public to feed back into the policy process.

—Role of the state

There are many formulations of the notion of the state. One that is considered useful within this context is that of Fried, viz., "...the complex of institutions by means of which the power of the society is organised."¹⁰⁶ The question for this thesis is: how is the power of society organised to provide public education and generally to communicate between the organs of the state and its citizens?

Arguments for a state role in providing public education on policy options and general communication about the business of government centre on the principle of increased public participation in the democratic process. WA Robson believed that the state was one of the contributors, "...to the sense of insignificance and impotence which afflicts many individuals in many modern societies."¹⁰⁷ As a consequence, he

identified a need to enlarge the freedom of the individual and increase their participation in order to enhance democracy. Robson did not provide any empirical evidence to support these claims. He did state that part of the task of a government was to enlighten the people about its purposes and programmes, so that it could be fairly judged. Without informed judgement, quality of government is unlikely to be high.¹⁰⁸

The role of officials in communicating with the public is to communicate simply and clearly what they are trying to do and why: "They should explain and justify their methods. They should be frank about difficulties and shortcomings."¹⁰⁹ In this way, prejudice and ill-informed criticism may be avoided and a discriminating body of public opinion established and maintained.

Holden stated that in order to encourage public participation it was, "...arguable that decision-making should be 'opened up' more, and that mass education...should be further emphasized."¹¹⁰

Key explained that conditions specified by democratic theorists, under which public opinion can be a force in government, include freedom of speech and discussion, and, "...the free availability of information about public issues and public questions..."¹¹¹ His view of popular government involved a two-way flow of information between the public and government.¹¹² To a certain degree this involves anticipation of the public's reaction. Key did not offer any empirical evidence to justify this model, but he did qualify it with four areas of deviation. However, as evidenced in the USA by Protess *et al*¹¹³, this traditional model does not work in practice, where the public are often by-passed by the media who directly influence public policy.

There is clearly a strong tradition that government should at least provide access to information about its activities. This can be viewed as a reactive measure of opening the books, if the public ask. New Zealand's Official Information Act 1982 has increasingly come to be used in this manner by some state sector agencies, despite the principles upon which it was established emphasising the need for proactive information to be provided to the public. A discussion on the Act is found in Chapter Three and a recent experience outlined in Chapter Four.

In support of the New Zealand principle of enhanced public participation, in 1981 Holmes & Martin linked the practical achievement of policy implementation to an informed public, and outlined a policy advocacy role for government: "...the pragmatic justification for this is that...the Executive may well find its wishes frustrated unless it makes the effort to explain its policies and persuade its constituency."¹¹⁴ Holmes & Martin also claimed that the exercise of government power could be restricted, fundamentally because of the failure of public policy and: "To a not inconsiderable extent this arises from failures of explanation..."¹¹⁵ Governments then, in this analysis, have a practical incentive to inform the public adequately on public policy matters, in order to facilitate their own constitutional role of democratic governance.

Practical evidence of the benefit of informed and therefore increased public participation in a New Zealand context was outlined by JL Robson in 1976. He saw increased public participation in penal policy as one way to bring about needed change and improved services for clients. However, in the absence of quality information, this increased public participation has the potential to do more damage than good: "If a well-intentioned but inadequately informed public presses for radical change...it might contribute...to worsen rather than improve the lot of the prisoner."¹¹⁶

Cleveland's description of decision-making in New Zealand in 1972 gives weight to the, "...free, vigorous, informed exchange of information and ideas"¹¹⁷, with its fundamental importance to the democratic political system cited.

WA Robson has noted that as the scale and scope of state action increases, the importance of communication becomes greater.¹¹⁸ While the New Zealand state sector reforms post-1984 were designed to give *less* government, public policy academic Jonathan Boston has demonstrated that in one sense at least we in fact actually have *more* because of the increase in the number and types of state sector agencies.¹¹⁹ Following Robson's thesis, this would indicate a need to increase the quality and quantity of communication between the state and the public. Even if these arguments are not accepted, in times of great change the public's collective memory and knowledge about their entitlements and

government processes becomes largely redundant and a significant knowledge gap emerges. It is clearly no one else's duty but the government's, to communicate the extent and content of such changes in ways appropriate to affected groups.

Answering the question in 1992, do we need government information services? Mike Devereau, Chief Executive of the UK Central Office of Information and Head of the Government Information Services, said: "Yes, now more than ever, because today both government and media are increasing in complexity."¹²⁰ He cited the need arising from the dramatic changes to the machinery of government and the increasing complexity of messages which need to be communicated. His view was that communication between government and citizen is an essential part of the democratic process.¹²¹

The two concepts: *increased* public participation, and *informed* public participation, appear to be critical and inseparable principles within the New Zealand democratic context. This concern is perhaps reflected in the choice of quotation from Thomas Jefferson at the beginning of the Directory of Official Information 1993-95:

*I know of no safe depository of the ultimate power of the society but the people themselves and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.*¹²²

—*Propaganda and politicization*

In his descriptive history of public opinion, Key suggested that following World War I, a belief in the ability of propaganda to shape public opinion grew. The study of psychology, the impact of radio and later television all contributed to the, "...belief that the people could readily be manipulated by the mass media..."¹²³ By the time of his writing in 1961, Key believed that governments attempted to mould public opinion toward support of their programmes and policies. He suggested that, "...a perfect congruence between public policy and public opinion could be government of public opinion rather than government by public opinion."¹²⁴ This shaping of public attitudes towards acceptance of

government policies is not justified on any philosophical basis. Key implied that government is merely another pressure group, competing against opposition parties and private lobby groups. He did not discuss why government, with all its resources and power, has a legitimate role in attempting to alter public opinion, or what checks and balances should apply.

John Keane found the 'self-promotion of state power' in Britain to be an annual budget of nearly £200 million. The state, in 1990, was the second largest advertiser, "...covering 'campaigns' on every conceivable policy matter."¹²⁵ His conclusion was that the, "...steady growth of state advertising gives all democratically elected governments enormous power of blackmail."¹²⁶ His subsequent discussion on United Kingdom political reporting suggested that there is a pact between politicians and the media whereby overall control is in the hands of the politicians, who utilize various coercive techniques. Tabloid journalism, with its obvious commercial incentive for sensationalism, would most likely be exempt from this analysis.

WA Robson found that while public relations was a legitimate government activity, there was a danger of undermining independent criticism of government if undue influence over the news media were exerted. This influence could be obtained by discriminating between those media outlets with a sympathetic editorial line and those without.¹²⁷ He suggested that presentation of partial or incomplete information by public authorities can operate to bias public opinion.

The United Kingdom justifies the role of its Government Information Services as being:

...to create and maintain an informed opinion about the subjects with which each department deals; to use all methods of publicity where suitable to help the department to achieve its purpose; to assist and advise in all matters bearing on relations between the department and its public; and to advise the department on the public's reaction to the policies and actions of the department.¹²⁸

Devereau explained its role as being to *inform* and not to *image build* for the government or ministers.

In the UK, the extreme concern that government publicity does not stray into propaganda is expressed by the scrutiny applied to government communications. Since 1946 more than 50 enquiries have been conducted into government communications activities.¹²⁹ Devereau explained that communicating with the public can provide political credit to the party in government. However, the search for such credit cannot be, or be seen to be, the *primary purpose* or *primary incidental* of their work. He claimed it was vital to keep separate legitimate public communications which are taxpayer funded, from party political issues concerned with image or electability.¹³⁰ Devereau did not precisely define which matters were appropriate to spend taxpayers' funds on. In New Zealand, the Audit Office issued guidelines for government advertising in 1989, which were subsequently partially endorsed by Cabinet Office. These are discussed more fully in Chapters Four and Five.

The benefits of government communication in a democracy appear to be outweighed by the dangers of propaganda or politicization of the messages. There is a borderline between legitimate communication and that which is *designed to* promote support for political parties or electoral success. The question of where this borderline lies in regard to New Zealand's constitutional arrangements is discussed in Chapters Three and Four. The evidence presented in Chapter Four suggests that support for existing government policy or policy proposals is a legitimate communications activity of most public and state sector agency types. Specific checks and balances are required in any jurisdiction in order to ensure that abuse of resources by government does not take place.

Endnotes

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1	Holden	<u>The Nature of Democracy</u> , p.2
2	Boston (1988)	'Democratic Theory, Devolution and Accountability' in Martin and Harper <u>Devolution and Accountability</u> , p.49
3	Holden	<u>Op. Cit.</u> p.8
4	<u>Ibid.</u>	
5	Barber	<u>Strong Democracy</u> , p.140
6	<u>Ibid.</u> , p.146	
7	<u>Ibid.</u> , p.147	
8	James	<u>New Territory</u> , p.283
9	<u>Ibid.</u>	
10	<u>Ibid.</u> , p.284	
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- 11 Mulgan (1989) Democracy and Power in New Zealand, p.24
- 12 Green Democracy, p.5
- 13 Nagel Participation, p.11
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- 25 Holden Op. Cit., p.229
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- 28 Knapp 'Informing the Backlash' in Gregory Op. Cit., p.113
- 29 Sharp Leap into the dark, p.14
- 30 Where all human behaviour is determined by self-interest.
- 31 Sharp Op. Cit., p.14
- 32 Mulgan (1989) Op. Cit., p.26
- 33 Ibid., p.29
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- 39 Ibid., p.199
- 40 Ibid., p.200
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- 42 Ibid.
- 43 Lindblom 'Still Muddling, Not Yet Through' in Public Administration Review
- 44 Schubert Op. Cit., p.205
- 45 Ibid., p.223
- 46 Ibid., p.224
- 47 Barry (1965) Political Argument, p.238
- 48 Ibid., p.239
- 49 Although Barry did go on to publish, in 1967, a significant work on this topic.
- 50 Burrows News Media Law in New Zealand, pp. 169-173
- 51 Ibid., pp.276-279
- 52 Ibid., pp.62-72 and 93-94
- 53 *London Artists Ltd. v. Littler* [1969] 2 QB 375 at 391
- 54 KJ Scott The New Zealand Constitution, p.52
- 55 Mulgan (1989) Op. Cit., p.160
- 56 Ibid., p.161
- 57 Ibid.
- 58 JL Roberts (1987) Politicians, Public Servants & Public Enterprise, p. 52
- 59 Ibid., p.56
- 60 Probine 'The Public Service and Ministers' in Public Sector, pp.21-22
- 61 Martin (1988) A Profession of Statecraft? pp.20-21
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- 62 Ibid., p.21
- 63 Martin (1991) Public Service and the Public Servant, pp.9-10
- 64 Where social and political life is a series of contracts between principals and agents. Like public choice theory, it relies on the assumption that individuals are always utility-maximisers.
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- 81 Polaschek Government Administration in New Zealand, p.230
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- 84 Ibid., p.290
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- 87 Ibid.
- 88 Knapp Op. Cit., p.108
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- 91 Palmer (1992) New Zealand's Constitution in Crisis, p.6
- 92 Martin (1988) Op. Cit., p.26
- 93 Holden Op. Cit., p.141
- 94 Ibid., p.144
- 95 Key Op. Cit., p.5
- 96 Ibid.
- 97 Ibid., p.7
- 98 Green Op. Cit., p.11
- 99 Dahl 'Representative Government' in Green Op. Cit., pp.60-61
- 100 Barber Op. Cit., p.154
- 101 Ibid., p.263
- 102 Comments made by the Electoral Referendum Panel 1993 regarding Citizens' Initiated Referendum support this view.
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- 104 Ibid., pp.37-50
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- 107 WA Robson Op. Cit., p.57
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- 110 Holden Op. Cit. p.230
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112 Ibid. pp.413-414
113 Protess *et al* The Journalism of Outrage
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116 JL Robson (1976) The News Media and Criminal Justice, p.24
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p.3
121 Ibid. p.4
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123 Key Op. Cit. p.6
124 Ibid. p.423
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127 WA Robson Op. Cit. p.45
128 Devereau Op. Cit. p.3
129 Ibid.
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CHAPTER THREE

—New Zealand government communications: pre-state sector reform conventions

CONSTITUTIONAL SYSTEM

New Zealand's legal tradition largely comes from the United Kingdom. The constitution

...reflects and establishes that New Zealand is a **monarchy**, that it has a **parliamentary system** of government, and that it is a **democracy**. It increasingly reflects the fact that the **Treaty of Waitangi** is regarded as a founding document of government in New Zealand.¹

The rule of law is paramount. One of the foundation cases came about in 1765². Governments have to ensure that where officials are required to act or behave in certain ways, that the freedoms of citizens are not infringed unless a specific law sanctions such behaviour. Even actions of the Sovereign in the exercise of the royal prerogative are not above judicial review.³

New Zealand is governed by three branches: legislature, executive and judiciary. Over time, powers have overlapped and amalgamated. The government in power, through Cabinet, controls both the executive and legislature (although in respect of the latter, the advent of MMP is already reducing the dominance of Cabinet). The Constitution Act 1986 abolished the United Kingdom Parliament's power to legislate for New Zealand, and outlines the roles of the Sovereign, executive, legislature and judiciary.

Parliament is the highest law-making body in New Zealand and the right to legislate is not questioned by the courts.⁴ The Bill of Rights 1688 states the legal principle in section 1: "That the pretended power of suspending of laws or the execution of laws by regal authority without consent of Parlyament is illegal" — a principle upheld in New Zealand in 1976.⁵

Anyone acting on behalf of the Crown needs to be aware that any of their work can be subject to a claim to the Waitangi Tribunal by any Maori. The Treaty of Waitangi Act 1975 as amended in 1985 allows for claims dating back to 1840 to be heard. Section 6 is extremely broad and covers just about any action governments may be involved in. While the Tribunal's role is recommendatory only, its work has been referred to by the courts and a great deal of publicity generally surrounds its findings. Additionally, the obligations implicit in the fiduciary relationship between the Crown and Maori include active protection and consultation.

The Governor-General, Prime Minister, Cabinet and Caucus operate in accordance with convention. Constitutional conventions:

...regulate, control and in some cases transform the use of the legal powers arising from the prerogative or conferred by statute. The most important conventions arise from the democratic character of our constitution.⁶

Even though conventions are not enforceable by the courts, together with constitutional statute they make up the entire constitution. KJ Scott stated that a practice becomes a convention, "...when it is recognised as such by the politicians who operate the Constitution and the scholars who write about it."⁷ The changing status of the convention of ministerial responsibility is discussed on pages 43-54.

Many constitutional statutes impact on government communications: key among these include the Ombudsmen Act 1975, the Official Information Act 1982, the Judicature Act 1908, and the Privacy Act 1993.

—Ombudsmen Act 1975

Acting as a check on the power of government, the Ombudsmen concept was imported from Scandinavia in 1962. Professor Larry Hill, an American political scientist writing about New Zealand's Office of the Ombudsman in 1976, explained four views about why bureaucracy was a threat to individuals: its growth and size; its lack of responsiveness and inefficiency; the inherent dehumanizing in its relationships; and the strategic power advantages over other government controls.⁸ The Ombudsman was described as the cure for these maladies.

The Ombudsmen Act 1975 outlines the roles and responsibilities of the Ombudsmen, who are Officers of Parliament. Individual citizens can take their grievances about matters of administration to the Ombudsman. While there is no power to alter government decisions, the Ombudsman can investigate and report on them. In practice, the knowledge that recommendations can be tabled in Parliament and the ensuing publicity, act as an inducement to government agencies to comply with any recommendations made. In effect, any decision or action made by any staff member of any of the organisations listed in the Act, can be investigated and reviewed. Any communications initiative, or absence of communications can be complained about and reviewed. This is separate from requests for information made under the Official Information Act 1982. The Ombudsman cannot investigate where there is a right of review by a court on any decisions made. In such cases the Judicature Act 1908 may apply.

—Official Information Act 1982

In New Zealand the Official Secrets Act 1951, modelled on the British statute of 1911, governed the non-disclosure of government information until 1982. In 1981 the Committee on Official Information (the Danks Committee), reported on its examination of the availability of public information. Growing calls for freedom of information had led to its establishment. For example Keith Ovenden, a political scientist calling for more open government in 1980, cited the public's right to sharing in the government of their own affairs: "This means being involved in the policy process...and involvement here is impossible without information."⁹ The Danks Committee acknowledged that the Government had recognised that it needed to take the public into its confidence, given its changing role and deeper involvement in people's lives.¹⁰ The Official Information Act 1982 is a direct result of the Committee's deliberations. The Committee said the essential purpose of the new Act would be, "...to improve communication between the people of New Zealand and their government."¹¹ They found that a new emphasis would be needed from both Ministers and officials on the 'positive information functions' of government.

In justifying the need for more open communication, the Committee stated that this rested on the democratic principles of encouraging public participation in public affairs, ensuring the accountability of those in office, and the pursuit of public understanding and support in order for government policy to be carried out. It concluded that this could only be achieved with an informed public.¹² These three principles appear to be well established in the New Zealand democratic culture (see pages 14-17 and 30-32). The Danks Committee envisaged an outflow of information which, while related to public demands (reactive), also corresponded to the, "...positive requirements of participation, accountability and effective government."¹³

One of the by-products of the Official Information Act 1982 has been a reliance on it as the vehicle for information release. The Act is frequently used in a reactive sense, that is, it compels government agencies to provide information requested by the public. There is no corresponding legislative requirement for government agencies to release information *prior* to anyone requesting it. It was clearly the intent of the Danks Committee that government should be proactive in its communications.¹⁴ This intent was not embraced within the legislation, nor would it have necessarily been desirable to do so. Nevertheless, there is no clear directive for a government agency to behave in a proactive manner with its communications, unless required to by statute. This, it can be argued, is a deficiency within our democratic system, given the principles outlined above. Where government agencies have taken a proactive role in providing public information, there has sometimes been a conflict with the convention which dictates a low profile for government agencies. Additionally, output class funding (post-Public Finance Act 1989) can work against the achievement of sustainable public awareness campaigns if public awareness is not in its own output class. Chapters Four and Five discuss these issues in more detail.

Palmer found that even the reactive requirements of the Official Information Act 1982 were onerous for some participants. It is, "...particularly unpopular with ministers and ministerial staff."¹⁵ However, he conceded—indeed promoted—the case for proactive communication when making unpopular policy decisions: "...it is better to choose the best time to announce them rather than have someone else

half announcing them as a result of information they have obtained under the Official Information Act.”¹⁶

In his 1988 essays, Martin suggested that the reform towards open government had probably been a disappointment to its proponents. He cited, as evidence, his impression that, “...in many cases information is made available in an *unauthorised* manner through leaks and ‘whistle blowing’, and not through the invocation of the procedures of the 1982 Act.”¹⁷ Certainly in terms of the reactive component of the Act, Martin believed it had gone as far as was necessary.

Indicating a break from convention, two Crown Health Enterprises have refused to comply with the Ombudsman’s ruling on release of information. According to the Dominion, Sir Brian Elwood, “...said only a handful of organisations had continued to refuse to make public information after an ombudsman’s ruling that they should.”¹⁸ The Law Commission is expected to report to Government in 1995 on its review of the Act.

—*Privacy Act 1993*

The Privacy Act 1993 outlines 12 principles in accordance with which personal information should be treated. It also takes over provisions from the Official Information Act 1982 which previously dealt with the management and disclosure of personal information. The implications for government communications primarily concerns those activities where inappropriate release of information to third parties may take place. Clearly this is contrary to the Act and the prevailing cultural belief that ordinary citizens have a right to privacy.¹⁹ The media are exempt from the Act’s provisions, which also apply to the private sector.

—*Judicature Act 1908*

Judicial review is undertaken by the courts to ensure that administrative action is within the bounds of authority and not outside the law (*ultra vires*). Key considerations are that any decisions are: not biased or pre-determined; consistent with the rules of natural justice; reasonable; and don’t take irrelevant considerations into account.²⁰ Just about any

decision can be affected by judicial review, and government communications are no exception. For this reason careful records of decisions taken and their justification should be kept. A prominent case of a government communications campaign subject to judicial review is the Maori electoral option conducted in 1994, where the Minister of Justice, the Hon. Douglas Graham had to account to the High Court which upheld the government's actions. Any subsequent appeal to the Privy Council by the Maori appellants may have significant constitutional implications by delaying the introduction of the MMP electoral system until after the 1996 general election.

ROLES AND RELATIONSHIPS

Palmer outlines the reality of the constitutional system as consisting of an interaction between the executive, caucus, Parliament, the Courts, political parties, pressure groups, the media, lawyers and the public.²¹

Alan Robinson, writing in 1978, distinguished three New Zealand power structures engaged in continuous interaction. These include:

...the party system, consisting of two major and several minor parties; the bureaucratic system, consisting of some 70 or 80 government departments and corporations; and the pressure group system, consisting of about 500 national pressure groups...with the news media playing a vital servicing role in communicating information between the structures and between them and the general public.²²

Cleveland also misses out the courts in his 1972 analysis of New Zealand's democracy, which includes public opinion, political representatives, political opposition, senior public servants, the news media, and pressure groups.²³

—Ministers and officials

In order to identify the New Zealand communications conventions with regard to ministers, it is pertinent to look at their broader responsibility. Ministerial responsibility is concerned with *personal* responsibility for

actions taken by a minister in a personal capacity (which is not discussed further in this thesis); *primary* responsibility where ministers are responsible for and answerable to Parliament and the public for policy or actions taken by the bureaucracy and sanctioned by the minister; and *vicarious* responsibility, where the minister is responsible and answerable for acts or omissions of the bureaucracy that the minister had no specific knowledge or involvement with. Three key events can be identified as significantly altering the traditional New Zealand conventions of primary and vicarious ministerial responsibility: the creation of the Ombudsman in 1962; the enactment of the Official Information Act 1982; and the combined effects of the state sector reforms including the State-Owned Enterprises Act 1986, the State Sector Act 1988 and the Public Finance Act 1989. A review of the New Zealand literature shows how these changes have gradually modified the convention. Recognition of this modification has been slow to develop in the post-state sector reform environment. Current communications practice recognises this change, but conflict has developed between practice and the theoretical conventions, which have not yet caught up with these changes. This is discussed further in Chapters Four and Five.

► PRE-OMBUDSMAN (1962)

In his analysis of ministerial responsibility, Polaschek distinguished between public corporations and departments.²⁴ Where the former are concerned, ministers are required to accept responsibility only for general policy and not for day-to-day administration. In the case of the latter, Parliament holds ministers accountable for the actions of the department, with the exception of Cabinet policy decisions where collective responsibility exists.

The minister owes the permanent public servant protection from public criticism, according to Polaschek. As a statement of principle, Polaschek believed this was accepted in New Zealand in 1958, but he cited examples where ministers had not always found it, "...expedient to adopt in practice."²⁵ He also stated that there:

...has not been a single case of a minister resigning because of the misdeeds of his subordinates. If a mistake occurs, the minister accepts technical responsibility, and then proceeds to

point out that the fault was not his but that of a public servant.²⁶

Contradicting this principle of protection, Polaschek stated that there is a, "...New Zealand tradition of exposing identifiable officials to public criticism."²⁷ He cited the case of the escape of a convicted murderer, Mr Edward Raymond Horton, and the Minister's public response as a case where this 'tradition' was carried on²⁸. Polaschek's contradiction reflects the difficulties in trying to reconcile the concept of a unified public or state service, with the fact that varying objectives and operational practices existed. Polaschek's final view was that: "No minister should blame his subordinates publicly unless the dereliction of duty is very grave. It is not necessary for him to resign when an error about which he could not possibly have known is uncovered."²⁹

In discussing ministerial responsibility in 1962, KJ Scott stated that:

Probably the majority of electors think that convention still requires a minister to resign when serious mistakes in his department are brought to light even when they arise from actions that he was not party to, would not have approved of, and could not reasonably have been expected to prevent; but this convention has never operated in New Zealand.³⁰

Scott claimed that ministers had primary responsibility for their own actions, as well as vicarious responsibility for subordinates' actions. If department officials have acted on the minister's bidding, the minister is primarily and vicariously responsible.³¹

He also stated that ministers were accountable to Parliament, and officials may be implicated when reporting to Parliament. He suggested that when a serious error was uncovered the best course of action was for a minister to appoint an independent committee and table its report in the House.³²

At the time of Scott's writing, many ministers issued policy statements personally, although there was no convention dictating the practice. The previous convention whereby public servants issuing policy statements claimed it was at the direction of the minister, had by that time been abandoned.³³ Scott found the practice of department statements issued anonymously, or in the name of the permanent head or other official to

be, "...unexceptional so long as there is no implication that the credit is due to anybody other than the minister."³⁴ It was not considered appropriate for a department to suggest the government had 'acceded' to a policy or that the department had 'approved' it. Scott found that a narrow line divided explanation from defence. This implies defence of policy was not an appropriate role for the official, although he did not discuss this further.

The Royal Commission on State Services explained, in its 1962 report, that the changing dynamics of the state services had led to a new type of official being required. The new role was described as predominantly a managerial one, distinguishable from the administrator of the past. In the traditional regime, the administrator was the anonymous servant of the minister, accepting and putting into effect the minister's decisions. For these decisions, "...and for the manner of their execution, the Minister takes the responsibility, and hence any public credit or blame."³⁵ However, because of the volume and complexity of business, the administrator:

...is sometimes required to defend in public the decisions which the Minister has taken. The public may jump to the conclusion that he is defending his own policies rather than those of the Minister, especially when it is suspected that he took the initiative in proposing those policies to the Minister. He therefore needs to acquire enough political acumen to combine frank discussion with his Minister in private with complete loyalty to his Minister in public.³⁶

This reference is significant in terms of analysing the post-state sector reforms of the 1980s, discussed in Chapter Four. The justification for the Royal Commission's apparent departure from precedent, is the changing environment in which state servants were operating in by 1962 and their changing role. It may be that the practice of defending policy was well-established in practice, at least for some agency types, but not previously acknowledged in the literature. However, such investigation is beyond the scope of this thesis, which can merely note this departure from stated convention.

The Royal Commission linked the concepts of defence of policy and loyalty. There was no analysis of the types of public agency where it may

have been appropriate or inappropriate for state servants to engage in this type of behaviour. The assumption made was that all state agencies shared the same role and function with regard to ministers. The Commission's definition of *state services* included the departments covered under the Public Service Act 1912 (the *public service* whose staff were called *public servants*), as well as the Post Office, Railways and Legislative Department. All staff of these agencies were termed *state servants*, except for members of the armed services and police, who were not called public servants either.³⁷ Therefore, the preceding comments can be taken to refer to all state employees except the armed forces and police.

The Royal Commission stated that, constitutionally, ministers were accountable to Parliament for the administration of their departments, including efficiency and economy. Employees of the department were agents of the minister and: "In the eyes of the law, the permanent official is an anonymous instrument of the Minister."³⁸ However, the Commission concluded that, "...it is unreal to expect Ministers in mid-twentieth century New Zealand to be able to oversee the day-to-day detail of their department's work."³⁹

■ PRE-OFFICIAL INFORMATION ACT 1982

The greater scrutiny applied to the bureaucracy by the creation of the Ombudsman altered the traditional convention of public sector anonymity. While there was no formal recognition of this change, it is clear that various writers were unable to reflect the traditional convention in their descriptions of the state sector post-1962. For example, Cleveland noted in 1972 that officials were informally able to:

...influence other officials, cabinet ministers, members of parliament, the political parties, pressure groups and the public by a variety of means including personal advocacy as well as inspired leaks and anonymous handouts to the press.⁴⁰

He linked the behaviour of some government agencies to that of pressure groups. This 'informal' advocacy does not fit the traditional convention which relies on a lack of transparency in an agency's actions.

JL Robson supported Cleveland's claim that officials can act as covert policy advocates. In discussing the relationship between the media and

criminal justice in 1976, he suggested that it was important for the administrator to use the media more effectively, "...to promote necessary change and to create a climate of opinion which was more supportive..."⁴¹ He also stated that:

The administrator might attempt to help shape social policy...to promote the enactment of the laws required to implement such policy, to seek with determination the resources to carry it out, and to provide the public with the knowledge and information essential to the understanding of the issues involved.⁴²

Later in his memoirs, Robson described the policy struggle to abolish capital punishment, which was achieved despite less than one-third of the public supporting the change. He outlined his personal commitment to advocating this policy with successive ministers, and his use of both the media and pressure groups to bring about the policy outcome.⁴³

State broadcasting appeared to fall into its own category when it came to determining accountability. Gregory, writing in 1978, found the greatest problem in freeing programming from partisan political direction or influence was, "...the ministerial imperative of matching responsibility with power."⁴⁴ As a public corporation, Gregory claimed that the New Zealand Broadcasting Corporation (NZBC) should be responsible to Parliament with regard to technical and financial matters. To a certain extent, the changes to the NZBC by successive governments demonstrated a desire to determine the question of accountability.

David Lange while a Member of Parliament, accurately predicted in 1980, the removal of public service functions to special purpose corporations and other government agencies, citing the political advantages of such a move. The Minister of Broadcasting would no longer become, "...a defender of policy decisions which he has not made."⁴⁵ This comment reflected the political assumption made, that for all public and state services regardless of agency type, the minister was the appropriate defender of policy. The stance taken by the 1962 Royal Commission that officials can defend policy, is therefore unsupported by these later comments.

A report on a pilot research project carried out in 1978 at Victoria University stated that in some departments the doctrine of ministerial responsibility, while taken seriously, was interpreted with discretion by officials in contact with journalists. The report did not go on to detail the parameters of that discretion or analyse the types of information considered appropriate for dissemination by officials.⁴⁶

Many leading writers, while demonstrating their awareness that conventions were altering, refused to accept such changes as appropriate. Sir Frank Holmes and Ken Piddington (Chairman and Director of the Planning Council respectively) argued in 1978 that the constitutional relationships between government, public service and the public were centred, "...on the concept of ministerial responsibility for *all* acts of administration, combined with loyalty on the part of the anonymous public servants."⁴⁷ Commenting on the Royal Commission's report, Holmes and Piddington found it significant that freedom of information was not discussed. They found it unsurprising that the lines had blurred to the point where:

...it is increasingly common to see a public servant taking public responsibility for something which is presented as an administrative decision, but which is in essence political....It is not uncommon to hear Ministers now blaming public servants and their advice as an excuse for something that has gone wrong.⁴⁸

They concluded that this was 'not cricket', but had become part of the normal conduct of public affairs.

This use of the term 'public responsibility' by Holmes and Piddington is undefined and it is unclear whether this includes defence of *policy* or *actions*, or what its parameters are. There is also no analysis as to which agency types this conduct was 'normal' to. Their comments appear to be based on a concept of a unified public service with similar objectives and operating environments.

Also writing in 1980, Sir John Marshall, a former Prime Minister, explained that ministerial responsibility was well-established and acted as a curb on the abuse of power. He used the term 'answerability' to define the minister's role in answering to Parliament, the news media,

constituents and pressure groups, for acts or omissions by a department. This also involved supporting and justifying the administration of policy. However, Marshall stated that a minister never has been, "...personally responsible for matters of administration in which he was not personally involved."⁴⁹ He explained that with the extension of government functions, ministers could not be held responsible for any administrative faults or shortcomings of a department, "...because no Minister has ever been concerned to supervise the day-to-day actions of his department in that way."⁵⁰

Responsibility for a department enabled a minister to be accountable, according to Marshall. This was because a department was entitled to protection because it, "...cannot answer in Parliament or in public for itself..."⁵¹ The belief that a government department could not defend its *actions* in public was supported by exponents of the view of public service anonymity, but not by those writing about existing practice post-1962.

The issue of defence of *policy* by the public sector continued to develop. Citing as support for his view that following the cessation of ministerial responsibility, the public sector had become an adjunct to partisan and sectional interests, Ovenden found that anonymity was not practised:

We have also seen the development whereby senior officials now appear on television to defend policies which are really those of the government of the day, but which, by being defended in this way, are increasingly seen by the public as policies of the department itself.⁵²

This supports the Royal Commission's (and possibly Holmes and Piddington's) finding of the practice of officials defending policy.

In the same publication, Ovenden argued against Marshall's analysis, by stating that the convention of ministerial responsibility had been allowed to die. Without providing any evidence, but claiming that it is empirically verifiable, he outlined the public sector's response to this death of the convention: fear among public servants that their ministers would not protect them; growth of the bureaucratic career structure; and a new doctrine of ministerial authority whereby the minister's orders, no matter how undemocratic or constitutionally improper, were carried out.⁵³

In 1981 Holmes and Martin made a distinction between *policy* and *administration*. For the former, ministers should be accountable for ensuring agencies implement government policies; and in regards the latter, a responsibility for oversight, but not for particular decisions.⁵⁴

In the same publication, JL Roberts suggested that control of information was the essence of the Westminster system which focused responsibility on the minister. The official administrator still talked publicly, but could hide behind, "...the unanswerable excuse of his duty to the Minister and the inviolability, under the Official Secrets Act, of the departmental records."⁵⁵ In considering a system of open government, Roberts suggested that the, "...first casualty would be Ministerial responsibility."⁵⁶

Evaluating a move towards more open government in 1981, the Danks Committee considered the argument that as ministers were accountable for their decisions, so should officials be obliged to reveal their part in, and share the consequences of, such decisions. They concluded with a recommendation to protect, at least in the short term, the free and frank exchange of views between ministers, their colleagues and officials. The Committee also found that this, "...should not preclude sensible steps to involve public servants in public debate about policy options and national choices before decisions are taken."⁵⁷ They also found that this should not prevent background information being released once policies had been adopted. The Committee did not envisage a public sector which retained permanent anonymity. The Act, in section 9 (2)(f)(ii) offers as a reason (but not conclusive) for withholding information, the need to maintain the constitutional conventions *for the time being* which protect collective and individual ministerial responsibility.

■ PRE-STATE SECTOR REFORMS

The primary problem with accountability was identified in 1986 by the Chairman of the State Services Commission, Dr Roderick Deane, as the dispersion of accountability across the control agencies, department head offices, on-site managers, and the relationship between the minister and permanent head and other senior officials.⁵⁸

In 1987 JL Roberts found that post-State-Owned Enterprises Act 1986, changes within the public sector such as greater management

responsibility for performance measurement standards, created problems for both the conventions of ministerial responsibility and the career service. He stated that as long ago as 1962, the strict rules of confidentiality and ministerial responsibility were relaxed when powers were conferred upon the Ombudsman.⁵⁹ Commenting on the Official Information Act 1982, Roberts also suggested that over time, the opening up of departments to direct investigation by the public should, "...change the rules of accountability and weaken the obligation on the minister to defend the advice and actions of his officers."⁶⁰ This thesis argues that such a situation has occurred and should be reflected in the post-reform communications conventions. This is discussed in Chapter Four.

In accord with Polaschek, Roberts noted that the levels of responsibility assumed by ministers would differ according to the specific *form* of the agency:

In the case of departments, ministers assume responsibility for all aspects of the administration and by convention are required to account for the statements and actions of administrators. If the agency has been constituted as a public corporation under statute, the minister is responsible for such duties as the relevant Act may impose or for the exercise of power to direct the affairs of the corporation as the Act may permit. As with all legislation, the relevant minister is responsible for the operation of any statute establishing public corporate bodies and must account to Parliament for the operation of the Act. Where government has possession of some or all of the assets of a non-statutory institution...the relevant minister must be prepared to explain how the public interest is protected by supervision of company management.⁶¹

Roberts had the advantage of writing in 1987 at a time of state sector reform, when it was clear that the creation of state-owned enterprises had altered the conventions forever in respect of a large part of state activity. He concluded that:

...the old rules are tending to slide and that it would be wise not to rely too heavily upon the convention of vicarious responsibility for the acts of departmental officers when contemplating organisational or administrative

accountability....but it is too early to say that there is no force left in the duty to account for the actions of the department.⁶²

Palmer, also writing in 1987, claimed that ministerial responsibility was unreasonably and impracticably wide.⁶³ Describing the doctrine as a 'moderately useful tool' for holding the government to account, Palmer supported the concept of primary responsibility: "Ministers should be plainly and clearly accountable and responsible for what they do and what they decide. But it is unrealistic to say they must take the rap for things they do not know about and did not authorise."⁶⁴

The impact of Keynesian economics on the public sector was described by Roberts as bringing forward bureaucrats:

...from their traditional passive and anonymous role into the policy-making front-line....One consequence is that the constitutional process comes under strain, another is that the bureaucrats are exposed to public criticism.⁶⁵

Palmer acknowledged the changes wrought by the State-Owned Enterprises Act 1986, and suggested a development in the convention so public servants could be held directly to account for their actions. He acknowledged the role played by the Official Information Act 1982 in requiring such change where it's enactment, "...has lifted the veil—but we need some new theories to replace the enveloping haze of ministerial responsibility."⁶⁶

In his discussion on state-owned enterprises, Palmer's view was that it didn't 'make much sense' for a minister in charge of a trading department to be held responsible and accountable for everything done by employees. He did not provide any detail except to explain that such responsibility was 'impractical'.⁶⁷

The process of 'decoupling' (removing politicians from close political direction of government agencies and creating a market relationship), which began to emerge in the 1980s, essentially removed the politician from close control and therefore, it was argued, responsibility for various state agencies. Ministerial responsibility, which requires close, interdependent and confidential relationships between ministers and departments is therefore incompatible in this schema.

Treasury's ministerial briefing papers following the 1987 general election challenged the doctrine of ministerial responsibility by declaring it belonged to a century ago, when ministers made all significant decisions. Treasury linked the lack of personal accountability of officials with poor management performance. Among proposals for reform, Treasury advocated an increase in personal accountability for officials and removal of anonymity.⁶⁸ To some extent the proposals found expression in the regime governed by the State Sector Act 1988 and the Public Finance Act 1989, for example in the performance contracts for chief executives.

Illuminating the pre-state sector reform conventions, Roberts revealed the lack of transparency which accompanied the convention of public service anonymity. He disregarded the assumption that the state services do not advocate policy:

But in all other respects the state services are political services dedicated to the success of the government's policies and, in pursuit of that success, acting as advocates and administrators of the policy. To suggest that this may be described as a 'neutral' position is a contradiction tolerated over the years in the interests of a harmonious relationship between officials and politicians.⁶⁹

—*News media*

The changing demands of other constitutional players means that conventions, once established, can never remain static, despite the best attempts of some writers to avoid acknowledging such changes or, where they do, discounting them as wrong or inappropriate. The relationship between government, the bureaucracy and the news media is a significant one and subject to changing conventions.

For example, in discussing the weakening convention of public officials' anonymity in the post-war period, Polaschek explained: "Newspapers prefer to attribute an announcement to a named official because it has more personal appeal and human interest than one made by an 'official spokesman of the department'."⁷⁰ His view was that publicity put a spotlight on the officials' relationships with ministers, although he did not question whether this was right or proper.

Cleveland was more explicit when he linked the success of democratic government in New Zealand as being reliant, among other things, "...on the capabilities as watchdogs and critics shown by journalists in the newspapers and electronic media."⁷¹ Pre-Official Information Act 1982, Cleveland suggested that the media provided machinery for the inter-communication between the various components of the political system, especially for the information exchange between government and the people.⁷² According to Cleveland, the success of pressure groups in influencing political or public opinion was related to their success in obtaining media access:

Without news media support, some pressure groups may languish and perish while others may experience such fatal difficulties in recruiting sufficient public support for the policies they advocate that they can scarcely achieve significance as anything but historical curiosities.⁷³

While the media must be courted by pressure groups, Cleveland claimed that media attention was not impartially showered upon all groups: "The relative newsworthiness of a group's activities can often determine the amount of publicity it receives..."⁷⁴

JL Robson, in his 1976 work on the media and criminal justice, claimed recall of, "...outstanding illustrations when newspapers within New Zealand have taken the initiative on important social questions."⁷⁵ His best illustration was the abolition of capital punishment and he claimed that specific newspaper articles had a direct bearing on the ultimate decision to abolish the penalty, despite a survey at the time revealing more than two-thirds of New Zealanders supporting its retention. This role played by the media is contradicted in Robson's later memoirs, where he revealed his own policy advocacy role and skilled use of the media to achieve his policy goals.⁷⁶ Why he credited the initiative to the media in 1976, can only be explained as being made for an astute political reason, where it was not appropriate at the time to reveal his own role, considering the prevailing convention of public service anonymity⁷⁷.

The Parliamentary Press Gallery is the traditional news source of Parliamentary and political reporting. Jack Hodder, in 1981, stated that: "Members of Parliament are among the most avid consumers of the news media's fare."⁷⁸ He also found that citizens and organised groups,

"...are becoming more skilful in using the media to influence (in the sense of changing) policy."⁷⁹

The development of broadcasting in New Zealand, according to Gregory, was controlled by government in order to:

...counteract the conservative bias of the country's newspapers.

By bringing the broadcasting service under direct ministerial control, the Government would have at its disposal a means of keeping the people informed about its policies.⁸⁰

Gregory explained that throughout the 26 years of direct government control over broadcasting, political controversy was avoided: "Parliament was seen to be virtually the sole political arena, and it was broadcasting's job simply to give New Zealanders a ring-side seat."⁸¹ During World War II, radio was used to provide government propaganda, "...designed to uplift the nation's war-time spirit..."⁸² A 1986 Royal Commission of Inquiry rejected a Treasury submission to open up broadcasting to market forces.⁸³ The structure of broadcasting was subsequently swept up in the fourth Labour Government's state sector reforms to reflect a system closer to the Treasury view.

Martin also commented that in the twenty years after World War II, "...given the absence of a fourth estate,...public servants played major roles in forming opinion."⁸⁴

Commenting on the media in 1987, Palmer stated that it enables public opinion to act as a check on government: "The ways in which news is reported, editorial opinion is expressed, television and radio current affairs programmes are handled all affect the capacity of the public to probe and question the decisions of Government."⁸⁵ Palmer rejected the notion that the New Zealand media act as the 'fourth estate', checking the power of government. Instead, he described the relationship between politicians and the media as a 'love-hate' one, which is reciprocal and where each needs the other.⁸⁶ He likened political reporting to a game, where trivia and posturing attract attention: "Matters of substance are too often ignored by the media."⁸⁷

This point was backed up in a book by another politician, Roger Douglas, where the media were listed as another guilty party to the economy's

poor performance: "The media has dwelt on trivia while neglecting serious investigation of the really big issues that confront us."⁸⁸

To a certain extent such changes to perceptions of the media's role and the tension between their role as watchdogs and what is actually achievable have been a direct consequence of government action. This is discussed further in Chapter Four. What isn't in dispute is that the Official Information Act 1982 changed the way the media could gather information. Instead of the suspicious, inquisitorial high ground a 'fourth estate' could command, the increasing transparency of government enabled a more co-operative approach to media relations to be taken. Prior to the Act, 'off-the-record' chats with officials, paid informants, and nurturing of close personal contacts with senior officials enabled journalists to remain well-informed with favours conducted from both sides. After the Act, the relationship became more 'arms-length' and professional, whereby officials could be treated impartially without a significant impact on the availability of information.

TRADITIONAL COMMUNICATIONS CONVENTIONS

In summary, the New Zealand literature is full of contradiction and opposing viewpoints as to whether there is or isn't an active convention of ministerial responsibility; what the proper roles of ministers and officials are; and what actual practice is. This is revealed most clearly in the discussion on whether it is appropriate for officials to defend policy or actions, or whether they advocate policy (transparently or not). Authors writing prior to the enactment of the Official Information Act 1982 reflect a very cloistered view of the public sector and ministers, where public service anonymity was tied into the requirements of the Official Secrets Act 1951; and those writing prior to the State-Owned Enterprises Act 1986 can generally appreciate the shift from the traditional ministerial role following the impact of open government. The real flaw in most of the various descriptions and prescriptions presented, is that the authors treat the public sector as one homogeneous whole. The assumption that all agencies have similar objectives and operating environments means that only one form of appropriate behaviour is ever identified, and perhaps it

is the agency type which is uppermost in the author's mind that is reflected in their view.

There were a few lone voices and moments of insight which commentators did not follow-up on. As long ago as 1958, Polaschek identified two agency types within the state sector: the department and the public corporation.⁸⁹ Holmes and Martin identified five agency types as they made an early contribution to the corporatisation debate in 1981. These included: what were later to become state-owned enterprises (SOEs); 'commercial' institutions most of which have now been privatised or listed for sale; the core public sector focused on administration; those with statutory responsibilities; and policy advisory agencies.⁹⁰

Despite contradictions in the literature, traditional communications conventions generally relied on the concepts of: a unified public sector with similar objectives and operating environments; primary and vicarious ministerial responsibility; public sector anonymity; and restrictions for officials on policy advocacy and defence.

The role of the media post-Official Information Act 1982 and consequently the expectations of the public, were more intrusive and demanding, but are not reflected in the traditional conventions, which are summarised on the following page.

**GOVERNMENT COMMUNICATIONS CONVENTIONS:
PRE-STATE SECTOR REFORM**

State Sector Agencies

Ombudsmen Act 1975 • Official Information Act 1982 • Judicature Act 1908
• Treaty of Waitangi Act 1975 • sub-judice provisions

Consultation with interest groups about government policy proposals, and to meet legislative requirements

Explanation of existing government policy **not** promotion or criticism (should not have the appearance of defence)

Explain agency's actions (should not have the appearance of defence)

Informal covert policy advocacy role **not** transparent

Available to the media when directed to promote public confidence **not** for protection of minister

All credit for department achievements to minister

Anonymity of public servants except those with statutory functions (some notable exceptions)

Ministers of State Sector Agencies

Promote/ defend/ explain/ attack party, government and/or opposition policy or proposals

Defend agency's actions

Blame officials for unknown administrative errors

Primary and vicarious Ministerial responsibility

Self-promotion and self-defence

Answerable in Parliament

Credit for department achievements

Endnotes

- 1 Extracted from Sir Kenneth Keith in the Cabinet Office Manual, p.1
- 2 *Entick v. Carrington* [1765] 19 St Tr 1030 (Court of Common Pleas)
- 3 Cooke P states, "...the claim that the Courts should be prepared to review a refusal to exercise the royal prerogative of mercy, at least to the extent of ensuring that elementary standards of fair procedure have been followed, cannot by any means be brushed aside as absurd, extreme or contrary to principle."
- 4 *Burt v. Governor-General* [1993] 2 NZLR 672 (Court of Appeal)
- 5 McKay J states, "The Court, however, does not have either the power or the responsibility to review the restructuring legislation, nor to direct the Crown on matters of policy."
- 6 *New Zealand Maori Council v. Attorney-General* unreported, 30 April 1992, CA 206/91 (Court of Appeal)
- 7 *Fitzgerald v. Muldoon* [1976] 2 NZLR 615 (Supreme Court)
- 8 Cabinet Office Manual, p.2
- 9 KJ Scott The New Zealand Constitution, p.28
- 10 Hill The Model Ombudsmen, p.8
- 11 Ovenden 'Commentary' in Alley State Servants and the Public in the 1980s, p.100
- 12 Committee on Official Information (a)
- 13 Towards Open Government: 1. General Report, p.5
- 14 Ibid., p.7
- 15 Ibid., pp.14-16
- 16 Committee on Official Information (b)
- 17 Towards Open Government: 2. Supplementary Report, p.31
- 18 "Departments and agencies will have a responsibility to improve communication with the public..." Committee on Official Information (a) Op. Cit., p.29
- 19 Palmer (1992) New Zealand's Constitution in Crisis, p.36
- 20 Ibid.
- 21 Martin (1988) A Profession of Statecraft? p.46
- 22 'Second CHE defies pay detail ruling', Dominion, 29/12/94, p.2
- 23 For example, under the Broadcasting Act 1989, the Broadcasting Standards Authority can award damages of up to \$5000 where an individual's privacy has been breached.
- 24 Chen & Palmer Public Law in New Zealand, p.928
- 25 Palmer (1992) Op. Cit., p. 9
- 26 Robinson 'The role of pressure groups in New Zealand' in Levine Politics in New Zealand, p.290
- 27 Cleveland The Anatomy of Influence, p.1
- 28 Polaschek Government Administration in New Zealand, p.220
- 29 Ibid.
- 30 Ibid., p.221
- 31 Ibid., p.223
- 32 See KJ Scott Op. Cit., p.126 and Sir John Marshall for different views on this particular case.
- 33 Polaschek Op. Cit., p.224
- 34 KJ Scott Op. Cit., p.29
- 35 Ibid., p.125
- 36 Ibid., p.131
- 37 Ibid., p.144
- 38 Ibid.
- 39 Royal Commission of Inquiry into the State Services
- 40 The State Services in New Zealand, p.26

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- 36 *Ibid.* pp.27-28
37 *Ibid.* p.19
38 *Ibid.* p.31
39 *Ibid.* p.32
40 Cleveland *Op. Cit.* pp.16-17
41 JL Robson (1976) *The News Media and Criminal Justice*, p.24
42 *Ibid.* p.25
43 JL Robson (1987) *Sacred Cows and Rogue Elephants*, pp.154-170
44 Gregory (1978) 'Public Broadcasting and Ministerial Responsibility' in Levine
Op. Cit. p.429
45 Lange 'Commentary' in Alley *Op. Cit.* p.52
46 Cleveland & Conroy
'Government Agencies and the News Media: A Better Working Relationship' in
Public Sector, p.11
47 Holmes & Piddington
'The public and its servants: the New Zealand environment re-assessed' in Alley
Op. Cit. p.42
48 *Ibid.* p.44
49 Marshall 'Administration and the changing constitution' in Alley
Op. Cit. p.91
50 *Ibid.*
51 *Ibid.* p.92
52 Ovenden *Op. Cit.* p.96
53 *Ibid.* pp.96-98
54 Holmes & Martin 'Setting the Scene' in Berthold *The Accountability of the*
Executive, p.19
55 JL Roberts (1981) 'Staffing For Greater Accountability' in Berthold *Op. Cit.* p.77
56 *Ibid.* p.79
57 Committee on Official Information (a) *Op. Cit.* p.20
58 Deane 'Public Sector Reform: A Review of the Issues' in Clark &
Sinclair *Purpose Performance and Profit*, p.14
59 JL Roberts (1987) *Politicians, Public Servants & Public Enterprise*, p.36
60 *Ibid.* p.37
61 *Ibid.* p.43
62 *Ibid.* p.50
63 Palmer (1987) *Unbridled Power*, p.56
64 *Ibid.*
65 JL Roberts (1987) *Op. Cit.* p.5
66 Palmer (1987) *Op. Cit.*
67 *Ibid.* pp.82-83
68 Treasury *Government Management*, pp.57-64
69 JL Roberts (1987) *Op. Cit.* p.64
70 Polaschek *Op. Cit.* p.215
71 Cleveland *Op. Cit.* p.1
72 *Ibid.* p.5
73 *Ibid.* p.113
74 *Ibid.* pp.10-11
75 JL Robson (1976) *Op. Cit.* p.30
76 JL Robson (1987) *Op. Cit.* pp.154-170
77 In the preface to his 1987 memoirs, JL Robson explained that as he had retired as
long ago as 17 years before, he did not regard himself, "...as still being under a
constitutional obligation to give credit to a Minister..." *Op. Cit.* p.xii
78 Hodder 'Commentary' in Berthold *Op. Cit.* p.55
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- 79 Ibid.
80 Gregory (1978) Op. Cit., p.427
81 Gregory (1985) Politics and Broadcasting, p.22
82 Ibid., p.29
83 Royal Commission of Inquiry into Broadcasting and Related Telecommunications in
New Zealand, p.145
84 Martin (1988) Op. Cit., p.47
85 Palmer (1987) Op. Cit., p.15
86 Ibid., p.16
87 Ibid., p.17
88 Douglas (1980) There's Got To Be A Better Way, p.13
89 Polaschek Op. Cit., p.63
90 Holmes & Martin Op. Cit., pp.21-22

CHAPTER FOUR

—Government structure and communications: post-state sector reform conventions

NEW ZEALAND'S BUREAUCRATIC REVOLUTION

—*Operational policy split*

The 1980s can be characterised by the profound changes to the operations of the state sector which radically altered the conventions under which government communications operated. The Official Information Act 1982 was just a beginning. During the term of the fourth Labour Government the State-Owned Enterprises Act 1986 was enacted. This confirmed official recognition of the differences in agency type throughout the state sector, and of the need to 'de-unify' the conventions which applied.

Palmer noted that confusion between social and commercial roles led to the enactment of the State-Owned Enterprises Act 1986, where the trading operations of several government departments were transformed into nine SOEs.¹ There are now 14 SOEs covered by the Act. The Act purports to change the nature of ministerial responsibility in respect of SOEs, with the powers of ministers defined in statute.

Earlier in 1986, Deane had identified a variety of problems with the traditional approach to the public sector, including the confusion which arose from a lack of clear objectives and the, "...mixture of commercial, social, regulatory, and policy advisory roles which many Government departments experienced..."²

The corporatisation of government trading activities was designed to provide greater public control through the operations of the market. According to Mulgan:

If a service is to be provided to the consumer, the best means of democratic accountability, it is argued, is through the decisions

of individual consumers conveyed directly through the market rather than through electoral influence relayed indirectly and ineffectively by politicians.³

Following on from the reshaping of state trading activities, Treasury reported to the 1987 incoming government that in order to improve management in the 'core' public service, greater clarity of objectives would be required. They proposed separating into different agencies, "...responsibility for the provision of policy advice, regulatory and funding activities, and operational activity."⁴ The creation of policy ministries was designed to avoid 'producer capture'.

This position was reflected in the enactment of the State Sector Act 1988, which was, "...directed to the improvement of accountability, responsiveness, and efficiency in the Public Service."⁵ The Act led to the emergence of 'departmentalism' where each government agency became an employing authority in its own right. The concept of a unified career service was effectively ended, with the only elements of unification remaining consisting of the common Act, the role of the control agencies and, to a limited extent, the senior executive service. Nonetheless, the collective character of the executive epitomised by the central role of the Cabinet remained. Reconciliation of what the incoming Prime Minister, Hon. Jim Bolger referred to in 1991 as the 'little islands culture' with the 'whole of government approach' has concerned successive governments.⁶ The relationship of the chief executive and the minister reflected principal-agency theory⁷, and accountability for performance by the official was prescribed. Such accountability was to be achieved using a system of performance contracts between ministers and chief executives. Fixed terms for periods of up to five years replaced the previous system of permanent tenure.

The process of greater clarification of agency types and objectives, and the resultant de-unification of the public service were not effected overnight. It took time to work the state sector reforms into the public sector, despite the radical policy shift. Understandably, inconsistencies arose. Commenting in 1990, Martin advanced the view that, "...it is very difficult to discern a clear functional pattern in the present departmental

structure..."⁸ As state sector reform was still in its infancy at the time, this comment is likely to be a fair reflection of the 1990 status quo.

This differentiation of agency types led to the identification, within the literature, of a new role for certain core public sector agencies: *policy advocacy*. This role is not necessarily acknowledged by the agencies themselves and the distinction may be contentious.⁹ Martin first identified this advocacy role in 1988 as, "...the institutionalisation within the machinery of government of advocacy groups."¹⁰ He cited the ministries of Women's Affairs and Consumer Affairs and the departments of Maori Affairs, Environment, and Conservation, claiming that before their creation, these views were under-represented within the bureaucracy. Martin added the ministries of Youth Affairs and Pacific Island Affairs to this list in 1990¹¹ and restated some in 1991.¹²

Professor Claudia Scott, in her article on the SSC's review of purchasing policy advice, also outlined the policy advocacy distinction and provides examples previously proposed by Martin.¹³

In 1994, in its ethics paper on senior public servants, the SSC also stated that there are several ministries and departments that, "...are seen to advocate for particular interests."¹⁴ It lists, as examples, some of those previously noted. Interestingly, there is no formal definition of what constitutes a policy advocacy agency, nor is there a comprehensive list in existence.¹⁵

Boston, in his 1991 work, initially steers clear of the 'policy advocacy' label, describing Women's Affairs, Consumer Affairs, Youth Affairs, and Pacific Island Affairs as 'client-oriented ministries'.¹⁶ In his description of their activities, he does not use the terms 'advocacy' or 'promotion', instead referring to 'advice' and 'liaison'. However, Boston later describes the achievement of Women's Affairs in the area of, "...advocacy work on behalf of women...".¹⁷ He also provides as examples of small, single-purpose agencies whose staff have a 'missionary zeal', Environment, Maori Affairs and Women's Affairs ministries.¹⁸ Boston concludes that additional 'client-oriented' ministries are unlikely to be established.¹⁹

Despite his definition of, and attention to, 'client-oriented ministries', Boston does not list this as one of the six core public sector agency types in

his post-state sector reform 'new order'. His analysis includes the categories of: central agencies; mainly policy advice functions; taxing functions; review and audit functions; mainly delivery and transfer functions; and mainly trading operations.²⁰ It is assumed that in Boston's analysis, 'client-oriented ministries' form a sub-set of 'mainly policy advice functions' agencies. In addition to his six categories and the 'client-oriented ministries' Boston also discusses the existence of, "...two departments with mixed responsibilities (the Department of Conservation and the Department of Survey and Land Information)..."²¹

This thesis considers the distinction of policy advocacy agencies in its survey analysis presented on pages 84-108.

Prior to the reforms of the 1980s, the state sector was considered to consist of the core public service, surrounded by various state trading activities, the armed forces and police. Post-1988, Martin has suggested that there are at least two (maybe more) public services at the core: *policy agencies*, where the 'public service ethic' may still be relevant; and *service deliverers*, where he states there may be a strong case for a managerialist approach.²² He makes a strong statement that, "...to attempt to redefine the ethical norms of the New Zealand Public service in 1994 without making this distinction is likely to be an exercise in frustration if not obfuscation."²³

This thesis avoids such criticism by identifying *three* core public sector agency types: primarily policy agencies; primarily operational agencies; and mixed policy/operational agencies (referred to as mixed objective). Within each agency type can be found agencies with defined statutorily independent functions. Additionally, if the policy advocacy agency role based on the literature were accepted these would be found in both policy and mixed objective agency categories, but not in the primarily operational grouping.

Overleaf are presented two options for the model. Evidence presented further in this chapter favours the adoption of Diagram II:

Diagram I: Core public service model post-state sector reform

Diagram II: Core public service model post-state sector reform

In a survey sent to 49 core public sector agencies,²⁴ which did not list options D) or E), but which provided 'other', 'SOE' and 'Crown entity' categories, 14 identified themselves as A), 13 were identified as B)²⁵, and 20 identified themselves as C). Two non-returns could be categorised as belonging to B.²⁶ If these figures were accepted, it could be said that of the agencies within the core public sector with distinct identities, approximately 30% are primarily policy agencies, 30% primarily operational agencies, and 40% mixed objective.

The survey respondents are listed overleaf. Examples of core agencies which may fit into the D) category of possessing statutorily independent functions are highlighted with an asterisk (*); and those which the literature suggests may have a policy advocacy role as represented in the E) category from Diagram I, are highlighted with a hash mark (#). In addition, those respondents which represent divisions of larger

departments which have established their own separate public identity are highlighted with a (^) mark:

Primarily Policy	Primarily Operational	Mixed Policy/ Operational
Auditor-General* Prime Minister & Cabinet Women's Affairs# Social Policy Agency^ Foreign Affairs & Trade Environment# Tourism Policy Group^ Youth Affairs# Transport Health Cultural Affairs State Services Commission Research Science & Technology (Ministry) Maori Development#	Community Employment Group^ Statistics NZ* Public Trust Office* NZ Income Support Service^ Valuation NZ Education Review Office Serious Fraud Office* Crown Law Office NZ Children & Young Persons Service^ NZ Police* Survey & Land Information National Library NZ Community Funding Agency^	Consumer Affairs# Pacific Island Affairs# Defence Civil Defence Internal Affairs Occupational Safety & Health^ Govt Superannuation Fund Social Welfare Justice Forestry NZ Employment Service^ Agriculture & Fisheries Inland Revenue* Treasury Industrial Relations Service^ Labour Housing (Ministry) Education (Ministry) Conservation# Commerce

For the purposes of establishing the communications conventions that are practised within the core public sector, this thesis makes use of the distinctions *primarily policy*, *primarily operational*, and *mixed objective*, except where the existence of 'policy advocacy' agencies is investigated.

Surrounding the redefined 'core' public sector is the enlarged state sector, which is also the focus of this study. In analysing government communications, this thesis surveyed those organisations whose

activities formed part of the core public sector prior to the state sector reforms of the 1980s and which are still in public ownership and subject to the Ombudsmen Act 1975 and Official Information Act 1982—state-owned enterprises, Crown research institutes (CRIs) and other Crown entities²⁷. Other state sector organisations which may be covered by the Official Information Act 1982, but which did not form part of the core public sector pre-1988 were not included (i.e. producer boards, statutory authorities, regional health authorities, Crown health enterprises, educational institutions, publicly-owned companies). While Crown research institutes are Crown entities, for the purposes of the survey analysis they were separately grouped in order to determine whether they possessed different characteristics from other ex-core public sector Crown entities.

—Effect on conventions

One of the key commentators post-state sector reforms is academic John Martin. His work has been influential in understanding the emerging conventions of the post-reform era as officials struggle to come to grips with the meaning of the changes. His work, developed while a senior public servant has been extensively utilised by the SSC in its attempts to redefine and articulate the public sector conventions post-reform period. The relevant communications conventions discussed by Martin are explained below. These are: the impact on ministerial responsibility; anonymity of public servants; and the role of officials in defending policy and actions, and policy advocacy. Martin's work shows a developing appreciation of the impact of the 1980s reforms on the public servant's role and also reflects the gradual, but permanent, nature of the reform's impact.

Writing in 1990, Martin suggested the State Sector Act 1988 cleared away Palmer's 'enveloping haze' over ministerial responsibility, with section 32 establishing, "...beyond doubt the managerial subordination of the chief executive to the Minister..."²⁸ Martin contended that ministerial responsibility had developed in two directions since the Act. Under one model, chief executives publicly defended *actions* which would previously have been defended by ministers, who began to take on a relatively low profile. Martin did not explain which agency types this

new practice had developed in, and did not reconcile the earlier claims of both the Royal Commission and Ovenden, that a practice of defending *policy* was already in place, at least in some (undefined) parts of the state sector.

The second model Martin outlined was a tightly controlled, 'hands-on' approach by ministers, reflecting an instrumental view of the senior public servant's role. Martin claimed this second model reflected the relationship between chief executives and ministers pre-State Sector Act 1988, although he acknowledged that the impact of the Official Information Act 1982 coupled with changes in managerial systems had, "...made irrelevant the strict canons of anonymity and confidentiality which applied in the past."²⁹ He also cites, in 1994, the Public Finance Act 1989 as changing ministerial responsibility to a focus on outcomes only.³⁰

Describing the changes in New Zealand since 1984, Martin now suggests that: "The picture which emerges is one in which power and responsibility for the actions of the state is diffused and distanced from ministers."³¹ Questioning the new machinery of government outlined by Birch as a framework for enhanced responsibility, Martin suggests that contract specification is not a sufficient substitute for ministerial responsibility: "In my view a network of contractual arrangements...at best attenuates and at worst suborns, ministerial responsibility."³² Martin also takes issue with other commentators and claims that:

...citizens have a common-sense and constitutionally correct understanding of the responsibility of ministers. Their expectation is that ministers will answer in Parliament (or on the *Holmes* programme) for *any* action that comes within the ambit of their portfolios.³³

By 1994 Martin does not suggest that the public desire is for ministerial responsibility exclusively and that public service anonymity is a prerequisite.

Martin takes issue with Scott, Bushnell & Sallee's view³⁴ that despite the reforms of the Public Finance Act 1989, the constitutional position has not changed. Martin explains that whether or not this is so, "...the *perception* of the relationship by the principal parties—ministers and

chief executives—has changed.”³⁵ Perception quickly becomes the reality in the development of constitutional conventions. Despite Scott, Bushnell & Sallee’s assurances, Martin’s analysis is probably more accurate. Indeed it is unrealistic to suggest that any major structural change affecting the public sector would leave the conventions, developed in part to make sense of the previous structure, intact.

One of the first conventions to alter post-State Sector Act 1988 was that of anonymity of officials and Martin supported this view. In 1991 he again cited the Official Information Act 1982 as being a key factor in this change, along with the Ombudsman Act 1975, and the changing role of Select Committees.³⁶ Martin also notes, in 1994, that the new accountability arrangements post-State Sector Act 1988, “...coupled with the provisions of the Official Information Act 1982 (NZ), made inroads into the anonymity of public servants.”³⁷ He further explains that the Official Information Act 1982 had, “...an effect on the ethos of the public service hardly less remarkable than the radical restructuring of the Fourth Labour Government.”³⁸

Martin’s view on the role of officials in defending policy was initially related to the retention of the convention of anonymity. In 1990 his view was that officials could be expected to *explain*, but not *defend* the policies of ministers: “Officials should recede into relative anonymity but continue to contribute their departmental and personal experience and wisdom to policy while managing their departments efficiently and economically.”³⁹ Martin did not clarify what he meant by ‘policies of the minister’—whether this referred to proposed policy, party policy or government policy, in which case the tradition of collective responsibility also applies. Martin also stated that: “It is not the role of highly visible public servants to act as lightening conductors diverting public fire from Ministers.”⁴⁰ However, from a practical point of view, the demands of the media, the requirements of the Official Information Act 1982 and the expectations of the public for officials to ‘front-up’, make such anonymity impossible for the official, in any agency type, in the 1990s. The actual experiences of state sector communications managers affirm this view on pages 84-108 where the existing practices are presented.

In a 1991 work, Martin acknowledged that although tied to the doctrine of ministerial responsibility, anonymity of public officials had never been consistently applied. He provided historical examples of 'high profile' public servants and explained this departure from precedent as being partly due to, "...the 'technical' nature of the department's activities and the absence of informed public debate."⁴¹ The term 'technical' was not defined, but Martin's recognition of the different nature of these departments' activities was a precursor of his later work in defining different agency types within the public sector. Significantly, Martin linked the concept of market failure in terms of 'informed public debate' to justify officials' role in public communications. This is an important development in the literature and this concept of market failure is discussed further in Chapter Five. At the time, Martin did not follow these exceptions through into a new rule formulation. His view remained that a proper role existed for all public servants (regardless of agency type), "...to be found in the distinction between *explaining* governmental policy or actions (an acceptable position), and *defending* them (the Minister's responsibility)."⁴² Martin followed this concept through into the role of officials appearing before Select Committees, where, he claimed, it would be better if they *explained* rather than *defended* the implications of a course of action.⁴³

Martin articulates what many senior public servants would not wish to hear—that de-unification is here to stay. He argues that the reforms have resulted in: the fragmentation of the public sector across different agency types; a consequential diffusion of ministerial responsibility and the increased managerial accountability of chief executives; widespread adoption of private sector management practices; and the spectacular reduction in size of the public sector. The new environment has taken fragmentation of the state sector beyond the point of no return: "In my judgement the fragmentation of the state sector in New Zealand has gone too far to think that a common ethos exists or can be (re)created."⁴⁴ Using survey data, this thesis demonstrates that the core public service consists of distinct agency types, and lends support for Martin's assertion that a common ethos no longer exists across the state sector or the public sector.

The Cabinet Office Manual reflects pre-reform conventions in its view of the relationship between ministers and officials. It makes it clear that

ministers are accountable to Parliament for the proper and efficient functioning of their departments, even when errors are made of which a minister had no knowledge. It also states that in general terms ministers, "...determine policy and defend policy decisions; it is the responsibility of officials to advise Ministers and to implement Government policy."⁴⁵ The meaning of 'in general terms' is, of course, open to wide interpretation.

The SSC has a leadership role within the state sector generally. Therefore its views are of considerable weight and importance. Its most recent publication has made a considerable contribution to the debate on changing conventions.

Without undertaking an analysis of agency types within the public sector, in 1993 the SSC stated that where an issue is publicly profiled as a matter of circumstance, rather than choice (reactive rather than proactive?), officials and departments, "...will not usually respond directly to a public attack made on them..."⁴⁶ What the exceptions may have been, the SSC did not detail, although where a minister fails to defend an official, "...then the chief executive (or the SSC) might be expected to request to discuss the matter with the MP/Minister concerned, or even the Prime Minister."⁴⁷ The SSC distinguished between the responsibility of the chief executive, as employer, in making public comment on the conduct of employees, and the minister's vicarious responsibility concerning *policy* or *administrative* failure. Less than a year later the SSC notes, under the heading 'Ambiguity and Tension', the requirement for senior public servants to accept, "...public, personal and organisational responsibility for actions and performance."⁴⁸ The SSC also identifies modification to the convention of anonymity through the more contractually explicit relationship that now exists between ministers and chief executives. It claims this has led to greater public visibility and exposure for senior officials and greater use of the media to, "...explain the activities and performance of their departments."⁴⁹ This assumption held across the public sector that the media provides the primary communications vehicle is discussed further in Chapter Five. The SSC further comments that the Public Finance Act 1989 encourages such public accountability in relation to the production of outputs.

The SSC's most recent view also states that it is not appropriate for public servants to be involved or *seem to be* involved in undermining ministerial policy decisions, or *appearing* to criticise the minister or government.⁵⁰ This concern with appearance as well as reality is repeated in terms of 'preserving integrity': "In the Public Service, *perception* is very important....a high standard of ethical and appropriate behaviour must be seen to be maintained."⁵¹ According to the SSC, in determining an appropriate course of action, appearance overrides other considerations such as the need to justify or defend an individual or department. Criticism of government policy or any activities or actions that might diminish the political neutrality of the public service are also to be avoided.⁵²

In 1994 the SSC does finally address the issue of the existence of different agency types, but in a piecemeal fashion. As a result, the discussion is too loose to be of any real guidance. For example, it states that: "The degree of Ministerial involvement in departmental activities varies from department to department depending on their nature."⁵³ Whatever 'nature' means is undefined, although the SSC does go on to suggest that the distinction can be found in the ministers' designations—Minister *of* something (presumably representing the homogeneous core public sector), versus Minister *in charge of* something (mostly Crown entities we are told). The SSC does recognise that the public sector is not homogeneous by distinguishing the statutorily independent agency type and provides some useful comment on the need for such agencies to keep ministers informed.⁵⁴ Additionally, its discussion on the special advocacy role of several ministries and departments recognises the 'policy advocacy' agency type. This may be a contentious distinction and SSC fails to provide guidance as to the parameters of the, "...clear understandings and ground rules..."⁵⁵ that should be established. SSC does suggest that there is a distinction between 'advocacy' and 'representation', but does not offer any explanation as to what this may be, nor what is meant by the two terms.

Contributing to the policy advocacy/ defence debate, in 1993 the SSC clearly stated that officials can explain policies, but, "...it is for Ministers alone to advocate or defend them."⁵⁶ Part of the justification for this stance was that:

...a clear line must be drawn between an enthusiastic administration and/or explanation of government policies by public servants and activities that might suggest the partisan advocacy of particular policies, thus undermining perceptions of the political neutrality and impartiality of officials.⁵⁷

The SSC did not explain what types of activities might be best avoided by 'enthusiastic' officials who did not wish to tread over the line, nor where the line actually was with regard to each agency type. Given the SSC's 1994 identification of policy advocacy ministries, if such a convention were to be applied across the public sector it would only enhance existing role confusion. The SSC's stance on this point is an echo of KJ Scott's earlier work which claims: "A narrow line divides explanation from defence"⁵⁸ and is very much pre-state sector reform in perspective.

In a very useful discussion regarding *explaining* policy versus advocacy, the SSC, in 1994, claims the distinction may not always be sustainable. It suggests that a lack of enthusiasm for a policy can be just as telling as criticism, whereas obvious *personal* enthusiasm for particular government policies can be just as inappropriate.⁵⁹ This suggests that advocacy consists of a personal contribution, as opposed to an official merely efficiently and effectively carrying out their job and supporting the minister. Enthusiasm *per se* is not advocacy. General department enthusiasm (willingness and motivation) to implement a policy, explain it and defend its implementation can be separated from an individual official's personal crusade. The debate about policy advocacy may be merely semantics when the practical implications of administrative efficiency, achievement of outputs and loyalty to the government of the day are considered.

Other key commentators have advocated a need to change the post-state sector reforms communications conventions. In an interview with the author, Rt Hon. Sir Geoffrey Palmer expresses his view that it is an essential role of government departments to provide timely information and background to policies:

...and explain them and give the rationale for them and to promote them. That's not the same thing as influencing public opinion. Influencing public opinion requires making editorial judgements about the adequacy of the policy—now that's not a

role for the government departments. But in the end, it is the promotion of what the policy is and the background to it, and why that is the policy...it's the provision of public information which is in fact at the heart of this.⁶⁰

Palmer also goes on to detail the practical limitations to the minister retaining the role of defending policy:

...the minister can't do it, the minister is very busy, the minister is minister of something else and there's only 24 hours in one day. The old view has changed....I do think that the departments have to be much more sophisticated in the use of the media and the old ideas about it are simply not apposite. They have to promote policy—the idea that it's the minister and it's only him, and we're the government service, is nonsense. Most of the policy comes from the department anyway, not all of it, but much of it.⁶¹

This point is backed up by Mulgan who, commenting post-state sector reforms, claimed that:

On more substantial matters of public policy, public servants are often responsible for the determination of policy as well as its administration. The major source of policy initiatives is not politicians, political parties, interest groups or other concerned members of the public, but government departments.⁶²

Mulgan also suggested that the doctrine of ministerial responsibility had discouraged public servants from openly speaking about department policies and the reasons behind them. He found it paradoxical that while the doctrine was intended to protect a minister's authority, "...the less publicity an issue has, the harder it may be for ministers to impose their will on public servants."⁶³ He found that public acknowledgment of each department's view allowed for broader public debate, which led to a more informed public and, by implication, better democracy. Mulgan explained that this change within the public sector:

...reflects an evolution in conventions of ministerial responsibility. Greater publicity for departmental views opens a public gap between politicians and officials. Ministers are less constrained from publicly criticising public servants.⁶⁴

—*News media*

The media had a lot of catching up to do following the changes in convention which were developing post-Official Information Act 1982, and which were heightened by the state sector reforms later in the decade. As well as grappling with these changes, the media had challenges of its own to face including: deregulation and increased competition; a new role for state broadcasters; and the influence of Treaty of Waitangi obligations on reporting standards.

Atkinson identifies ten developments which have affected the New Zealand news media over the past decade many of which are a result of state action and not of the media's own making. They are: the demise of metropolitan evening newspapers (Wellington's Evening Post being the last in Australasia), and duopoly ownership covering 90.5 percent of metropolitan circulation and 65 percent of provincial circulation; the dramatic decline in daily newspaper readership which more than doubled during the decade; the increase in magazine titles without a consequent increase in ownership or ideological viewpoints; the proliferation of commercial radio stations; Radio New Zealand and TVNZ's transformation into SOEs; the increase in advertising on television from a maximum of five days a week, seven minutes per hour in 1977, to seven days a week, twelve minutes per hour in 1993 (not including in-house promotions and programme advertisements); the sale of radio frequency rights; the separation of public ownership from public funding with the abolition of the Broadcasting Tribunal and establishment of the Broadcasting Standards Authority and New Zealand on Air; the establishment of TV3, Sky TV and regional television; and the abolition of restrictions on foreign ownership.⁶⁵

On 1 July 1989 the Broadcasting Act 1989 came into effect. It reflected a market model while allowing for the maintenance of broadcasting standards. It abolished the Broadcasting Tribunal and removed all advertising restrictions except for Sunday morning television and specified public holidays. Restrictions on new services such as cable television and direct satellite broadcasting were also removed. The new Act also separated social, regulatory and policy advice functions from commercial activities. A further amendment in 1991 removed all

barriers to foreign ownership. A Broadcasting Commission (NZ On Air) and the Broadcasting Standards Authority were established as independent bodies to ensure government's social objectives were met. Two state-owned enterprises were created: Television New Zealand Limited (TVNZ) and Radio New Zealand Limited.

In November 1989 a third privately-owned national television network began broadcasting in competition to the two networks operated by TVNZ. By 1993, TV3 covered 85% of the population.⁶⁶ Sky Television, a pay-TV system was also broadcasting on three channels in Auckland, Bay of Plenty, Wellington and Christchurch by this time. Regional ultra high frequency (UHF) services broadcast in Christchurch, Rotorua and Queenstown, as well as a free-to-air racing channel.

The number of radio stations also increased and in 1990, frequencies were reserved throughout the country for the promotion of Maori language and culture. There are now 16 Maori radio stations broadcasting compared with one in 1989.⁶⁷

New Zealand has 28 daily newspapers: the largest is The New Zealand Herald, with a circulation of 250,814 copies. Competition and other factors forced the closure, after 120 years, of The Auckland Star in August 1991. A few weeks later The National Business Review reverted to a weekly format after four years as a daily and merged with the weekly Examiner. In November that year The Christchurch Star ceased daily publication after 123 years and continues as a free broadsheet twice weekly. Ownership is concentrated in two major companies: Independent Newspapers Limited, and Wilson and Horton Limited, which together account for 80 percent of daily circulation.

Suburban newspapers have grown steadily in popularity since the early 1980s, issuing 1.8 million copies each week. Over 2,300 magazines are available in New Zealand, with 58 being New Zealand editions, or published in New Zealand.⁶⁸

This plethora of media activities is supported largely by the advertising industry, with \$1,169 million spent on television, radio, newspapers, magazines, direct mail, cinema and outdoor advertising in the year ended March 1992.⁶⁹ The media is big business in New Zealand. Atkinson

contended in 1989 that advertising was the key influence on media standards: "Advertisers narrow whatever mass medium they subscribe because the editor has to serve the already identified and paid for audience."⁷⁰

Writing in 1994, Sharp also claims that the media, "...are not an independent estate. They serve a constituency of consumers and advertisers and must negotiate a passage between them..."⁷¹

The media are important in New Zealand's democracy, but there is evidence of a perception that they are failing to perform in the post-reform era. Palmer explains that:

...it is through the media the public learns of executive proposals and decisions, parliamentary activity, caucus behaviour, pressure groups views and policy debate generally. The channels of communication should be accurate, sufficiently detailed to communicate the necessary intelligence for a democratic society, and deep enough to promote public debate at a sufficiently high level to ensure that public debate influences policy outcomes. There is grave doubt these functions are being performed adequately.⁷²

He claims that the deficiencies in the media's performance add to New Zealand's constitutional difficulties. These deficiencies could be countered by: journalists returning to basics and separating news from comment; improving accuracy in reporting; a clearer focus or mission for the parliamentary press gallery; a fundamental re-think by news proprietors about their responsibilities in the area of political journalism; employment of better-qualified journalists on higher salaries, preservation of public radio news and current affairs; an educational TV channel without advertisements; and a pro-active government information policy.⁷³

Douglas, in his 1993 work, claims the media are the voice of conservatism. He also describes the government as the major source of daily news. As a consequence:

Most journalists are willing to offend them only up to a certain point. Beyond that, independence of thought or analysis start to close off their own access to government information....most

political journalists operate more like Elizabethan courtiers than modern, independent news analysts. Like courtiers, they are happy to gossip, often maliciously, about politics and politicians, but only within the accepted limits of established political convention. Good quality thinking has very little to do with this process.⁷⁴

Apparently oblivious to the courtier's role, Ian Fraser, commenting from a journalist's perspective says that:

...politicians and journalists are natural enemies and that the correct relationship between a broadcasting organisation that is doing its job properly and the government of the day should be one of steady friction punctuated by occasional bursts of machine gun fire.⁷⁵

Clerk of the House, David McGee, in an interview with the author supports the notion that in regard to the parliamentary press gallery, reporting standards are influenced by the economic pressures faced by the media:

One of the reasons is the economics of particularly the newspaper industry, with newspapers closing down—The Christchurch Star, The Auckland Star. They're going out of existence at the same time the existing core of reporters based in Parliament are being cut back—they're being asked to take on more functions. Rather than being able to specialise...they've got to do it all. In some cases...they're kind of the Wellington correspondents of the various out of town newspapers rather than solely the Parliamentary correspondents.⁷⁶

McGee also suggests standards are influenced by the nature of the working relationships between ministers, press secretaries and press gallery reporters:

There are interpersonal relationships among the media and the career structure now involves people being able to jump off from being a poacher to being a game keeper and vice versa. And that can only inhibit good and challenging reporting, certainly it wouldn't encourage people to go out of their way to

make enemies amongst ministers, who they may well want a job from in the future. It's kind of an indefinable influence that will rest with people who might be able to put ministers on the spot. But I think there's more of a fundamental problem than that, and that is a problem of ability....They are much more interested in being able to take ministerial press statements to see what news is being made in the Beehive, rather than what news might be being made in the Parliamentary process.⁷⁷

The small scale of the New Zealand media was suggested by Mulgan, in 1989, as hampering political coverage: "Hard-pressed journalists rush from one press briefing to another, with little time to investigate on their own initiative."⁷⁸ He also suggested that politicians can intimidate the media. Working against the media's independence and hence their ability to make governments democratically accountable are:

...factors, such as the intimacy of New Zealand political life, the close relations between politicians, journalists and editors, broadcasting's dependence on government for empowering legislation and finance, as well as the strictness of the rules of parliamentary privilege and the law of defamation...⁷⁹

Commenting on his time as Prime Minister, Palmer stated:

I often thought I had spent more time dealing with the media than devising the policies. The media in New Zealand require constant feeding, instantaneous comment and government pronouncements on virtually everything.⁸⁰

Palmer claimed that given the changes and economic pressures brought to bear on the media, news and current affairs:

...are threatening to become info-tainment in which the trivial, the colourful and the personal count more than the policy, its consequences and the public interest. To succeed, politicians have to play this game—they become actors rather than decision-makers; poseurs rather than people of substance.⁸¹

In her 1993 analysis of crime reporting, Judy McGregor, a communications academic and former newspaper editor, describes the

reformed 'New Zealand mediascape' as reflecting entertainment rather than information values:

...the culture of journalism generally in this country has been altered both perceptibly and imperceptibly by the deregulation of the electronic media and by the global economic recession which has impacted on the print media....It is further suggested that the lack of capital investment in journalism as opposed to investment in new broadcasting or print technologies, means that news that is easy for reporters to capture and gather is receiving priority in presentation and publication.⁸²

Political news issued from political press secretaries and department public relations officials can be classified as 'easy to gather' news and may be increasingly subject to less analysis as McGregor and other commentators suggest.

Her preliminary study showed an increase in crime news, and McGregor suggests that if confirmed:

...the trend is in response to increased news media competition, the movement towards infotainment, organisational constraints such as fewer newsroom resources, and the ease of capture of crime stories from accredited sources like the police and the courts.⁸³

McGregor's findings have significant implications for criminal justice policy-makers who rely largely on the media to communicate policy issues.

Atkinson's television research from 1985-1992 shows a clear topic shift to more emotionally-coloured, victim-oriented portrayals of crime, accidents and natural disasters. Writing in 1994 he claims this leads to, "...higher ratings and less information about the more complex, and also more problematic aspects of public affairs."⁸⁴

Media participants at the Broadcasting Standards Authority conference in May 1994, responding to an allegation of lack of critical comment in reporting:

...replied that the reason was economics—deep newsroom staffing cuts and journalists robbed of time for analysis. Others

identified the problem as high pay rates in the PR industry, which robbed journalism of its best people.⁸⁵

A question which remained unanswered by conference participants was whether deregulation and free choice removed responsible public information roles. Atkinson addresses this point in 1994 by linking the willingness and ability of citizens to engage in democratic participation, to the willingness and ability of the media to highlight political choices. He finds that current standards and genre are not conducive to this and calls for all media, especially television to, "...reaffirm public education as a central role."⁸⁶ This represents an outdated perception of the news media's role, which is sometimes shared by the media themselves. An editorial in the Evening Post discussing the importance of a free flow of information in a democracy is critical of the New Zealand experience which, it says:

...is threaded with examples of the work of bullies—Ministers who set out to stop information becoming news, who have conspired to reshape information in a manner more palatable to them, or who sought to determine who should report news.⁸⁷

The article perpetuates the myth of the media as the 'fourth estate'.

The Privacy Act 1993 exempted the media from its provisions. It is possible that given the contentious nature of much of the legislation relating to government information sharing (the 'big brother' scenario), that the media's co-operation in not pursuing a campaign of opposition to the legislation (which could easily have been sensationalist in character) was tacitly obtained by exempting them from the Act's provisions. Privacy undoubtedly remains an important public policy issue. If the public perceived the media to be overly-abusive in invading individual privacy, it may ultimately lead to a public, and hence government, backlash. This concern is probably most strongly felt in regard to victims of crime. In 1992, the outgoing Victims Task Force issued a comprehensive training kit for journalists which explained appropriate ways to report on victims of crime. Compliance with the kit's recommendations is at the media's discretion.

The media are aware that they have faced unique pressures in the past decade and that their role has changed as a consequence. There is general agreement as to what the types of pressures have been, but no consensus as to the media's role in New Zealand's democracy given its historical emphasis, the existence of the 'fourth estate' myth, and the strict commercial motives of increasingly competitive, yet under-resourced, media businesses. The issue of the media and public education is discussed in terms of market failure in Chapter Five.

AGENCY PERCEPTIONS OF COMMUNICATIONS ROLE

Until the State-Owned Enterprises Act 1986 corporatised several government trading activities and the State Sector Act 1988 effectively departmentalised and de-unified the public sector, the traditional communications conventions outlined on page 59 largely dictated the parameters of government communications. Prior to the reforms, the Tourist and Publicity Department, first established in 1901, provided most government publicity, including promotional and public relations services to ministers. While this had begun to change in the 1970s, in-house communications services were relatively primitive throughout the early part of the 1980s and mainly focused on providing information leaflets and the like. In contrast, the 1990s has seen the vast majority of public and state sector agencies employ highly qualified communications professionals, often reporting directly to the chief executive, and engaged in a variety of public awareness, public information, public relations and marketing activities.

The relatively recent nature of this growth in communications activity has meant that often communications staff have not had previous significant periods of employment within the state sector. As a consequence, the traditional communications conventions have been readily dispensed with, if they were known about at all. New communications practices post-state sector reforms have developed and are formally identified on pages 106-108.

In order to identify the conventions now practised, a survey was conducted amongst public sector and certain state sector communications managers (see Appendices One–Three). Their responses are grouped according to agency type as discussed on page 68 for core public sector agencies, and according to their legislative status for Crown entities, state-owned enterprises and Crown research institutes.

The data summarised below omits any communications activity identified by only one respondent. This is because the number in each sample set is quite low, and to draw any conclusions from one return would not greatly illuminate the issue and may be a distraction. A full data set is included in Appendix Three. Percentages supplied should be treated with caution and not used for direct comparisons across agency types. Statistical analysis (Z scores) have been conducted to test whether there are any significant differences between some data groupings and the conclusions drawn from this analysis can be relied upon. See Appendix Four for all statistical analysis relating to the rest of this chapter.

—*Appropriate activities*

The survey respondents were asked to tick from a list, the communications activities their agency engaged in. Missing from the list were the usual range of internal communications activities. This omission was deliberate, because this thesis only studies government communication with the public (external audiences). In any event, only one state-owned enterprise noted under the 'other' category, that it undertook staff communications. If provided with the opportunity, probably all respondents would also have indicated this as one of their ranges of activity. In hindsight, the five options⁸⁸ relating to 'policy proposals' should have been made clearer by inserting the words 'government or agency's own' beforehand. The distinction between an agency's willingness to publicly align itself with an actual policy proposal prior to it becoming policy can still be made, but not any conclusions as to whether this relates to government policy proposals or the agency's own. The sixth option of consulting with interest groups for policy proposals is not included in this comment, because consultation implies that regardless of whether the proposal emanated from the agency or the government, the agency itself is not yet aligned to it (or cannot be seen to

be aligned to it), but is seeking public/ interest group input into the decision-making process.

The term 'advocacy' has been purposefully left out of the list of activities and the term 'promote' substituted. This is because 'advocacy' implies something subjective and has been frowned upon within the literature, whereas 'promote' invokes the concept of 'support for' and 'encouragement of', which may be viewed as no more than active agency enthusiasm for promoting administrative efficiency and the achievement of outputs.

The primary activities each agency type engages in are summarised below:

► CORE-POLICY

<i>Activity</i>	<i>%</i>
Consultation of interest groups for policy proposals.....	85.71
Explain government policy	78.57
Explain policy proposals.....	64.29
Front-up to the media if required	64.29
Explain agency's actions in the media.....	64.29
Client communication.....	64.29
Consultation of interest groups for legislative requirements.....	50
Promote government policy	42.86
Promote policy proposals.....	35.71
Provide public education services.....	35.71
Consultation of interest groups for service proposals.....	28.57
Promotion of agency in media.....	21.43
Defence of agency in media	14.29
Defend government policy.....	14.29

There were 14 agencies represented in the above data.

Nearly half of all policy agencies do engage in (and obviously consider it appropriate to do so) promotion of government policy, as distinct from explaining it, which 78.57% say they do. As well, consultation with the public features highly, whether for policy proposals that may affect them, or because the legislation tells the agencies they have to consult. It is possible that the high score for promoting policy proposals is linked into

this practice of public consultation, where explaining policy proposals is also an important activity.

In order to test whether the identification of policy promotion was skewed by the possible existence of 'policy advocacy' agencies, those agencies described as such in the literature were isolated out to see if they scored any more highly in this area than others in the primarily policy category. Not all of the surveys from 'policy advocacy' agencies had been self-coded purely into the primarily policy agency type.⁸⁹

The only area agreed upon by all four 'policy advocacy' agencies listed under the primarily policy category was 'consultation of interest groups for policy proposals'. The four 'policy advocacy' agencies represented 33.33% of the primarily policy agency respondents for this activity. There were five activities where three out of four 'policy advocacy' agencies indicated they engaged in an activity. These were: promote policy proposals; explain government policy; explain policy proposals; provide public education services; and front-up to the media if required. They represented 60%; 27.27% 33.33%; 60%; and 33.33% of the respondents in each respective category.

As the four 'policy advocacy' agencies represented 28.57% of all respondents in the primarily policy category, only those results which differed markedly from this percentage were tested, viz. explain government policy (60%) and provide public education services (60%). A statistical test (Z score) was carried out to see if there was any significant difference between three out of four 'policy advocacy' agencies and two out of ten core policy agencies in each of these categories. The test concluded there is no significant difference in the results (see Appendix Four, Calculation One).

Defence of policy or of the agency itself is not generally considered an appropriate activity for policy agencies, and this reflects the reality that the core policy agencies are closest to the pre-state sector reform public sector conventions than any other existing agency type.

D CORE-OPERATIONAL

<i>Activity</i>	<i>%</i>
Client communication	92.31
Marketing of services.....	84.62
Promotion of agency in the media.....	84.62
Front-up to the media if required	69.23
Consultation of interest groups for service proposals.....	69.23
Consultation of interest groups for policy proposals.....	69.23
Explain agency's actions in media.....	61.54
Provide public education services.....	53.85
Corporate positioning/ awareness advertising.....	53.85
Consultation of interest groups for legislative requirements.....	53.85
Explain government policy	53.85
Marketing of product	46.15
Defence of agency in media	46.15
Promote government policy	38.46
Explain policy proposals.....	23.08
Defend government policy	15.38
Promote policy proposals.....	15.38
Defend policy proposals.....	15.38

There were 13 agencies represented in the above data.

The operational agencies are extremely client-focused, which is one of the great advantages of the state sector reforms with its focus on outputs necessitating a move away from an inward, self-serving culture. Marketing is again largely a phenomenon of the post-reform period, and is linked into client communication. The fact that agencies the literature would consider 'core', can fearlessly describe some of their communications activities as 'marketing', whether of service or product, is indicative of the great strides that have been made away from the passive information-provision culture. Operational agencies are behaving more like private sector businesses in terms of knowing their clients and utilising the fullest range of communications tools in order to ensure that government business is transacted smoothly and efficiently. Similarly: agency promotion; corporate positioning/ awareness advertising; consultation with interest groups; and explanation and promotion of government policy can all be linked into this greater client focus and higher public visibility. The operational agencies least reflect the pre-state sector reform conventions.

► CORE-MIXED OBJECTIVE

<i>Activity</i>	<i>%</i>
Explain policy proposals.....	85
Explain government policy	80
Explain agency's actions in media.....	80
Front-up to the media if required	80
Consultation of interest groups for policy proposals.....	80
Provide public education services.....	75
Promotion of agency in the media.....	70
Client communication	70
Consultation of interest groups for legislative requirements.....	70
Consultation of interest groups for service proposals.....	65
Promote government policy	60
Promote policy proposals.....	60
Marketing of services.....	55
Defence of agency in media	55
Defend policy proposals.....	40
Corporate positioning/ awareness advertising.....	35
Defend government policy	35
Marketing of product	20
Lobby for specific policy proposals.....	10

There were 20 agencies represented in the above data.

The mixed objective agencies are those which create somewhat of a dilemma for both ministers and officials. On one hand they exhibit all the features of a policy agency, and on the other they must engage in client-focused activities in the same manner as operational agencies. This means that they must undertake the broadest range of communications activities of any agency type, which must require greater staff skill and resources. Explanation of policy proposals, government policy, and the agency's actions; consultation; the provision of public education services; marketing of services; client communication; and use of the media for self-promotion and defence, all feature highly. Similar results to that of the policy agencies are recorded for promotion of government policy and policy proposals. The mixed objective agencies cover almost every communications activity that at least 50% of the policy and operational agencies cover.

Again, an attempt was made to isolate those agencies noted as 'policy advocacy' in the literature who self-coded themselves as mixed policy/operational (15% of those in the mixed objective category), and a

comparison made with the others in the mixed objective category for any results markedly different. As there were no results which were more than $\pm 5\%$, no statistical tests of significance were necessary.

At least half of the mixed objective agencies also engage in defence of the agency in the media, which is similar to operational agencies. This emphasis on defence may reflect the high media interest in administrative action now that the convention of public service anonymity has altered. It may also reflect public confusion which surrounds the role of mixed objective agencies and the range of expectations various groups hold. The agencies themselves may be somewhat confused as to where defence of operations legitimately begins and ends, as more than a third noted they engaged in defence of their own or government's policy proposals, and defence of government policy. This may be semantics, as the appearance of defence may be given when in fact it is simply explanation, targeted to the appropriate audience, taking place. The agencies may perceive their activities to be in defence of policy, however neither policy nor operational agencies report engaging in similar activities and it is unlikely that such a convention could exist in isolation in the mixed objective type. There are undoubtedly many occasions when a mixed objective agency (or, for that matter, an operational agency) perceives the need to defend a particular policy or proposal in order to ensure cost or administrative efficiency in the achievement of outputs. The point communications managers should bear in mind, is that well designed and carefully controlled *explanation* can have the same *effect* as defence, but not the *appearance*. This does not require the removal of transparency, but for such agencies to carefully construct and manage any communications activity that may be perceived as defence. Timing and the level of expenditure are critical issues to consider in mounting any such explanatory campaign.

■ CORE-SUMMARY

It is clear from the above data that mixed objective agencies undertake a far greater range of communications activities than any of the other two core agency types. Aggregating all the data together to obtain the main activities undertaken would not yield useful results, because the mixed

objective agencies' results clearly dominate the data. A pattern of differing perceptions has emerged from the data and lends support to the argument that different communications conventions do govern the different agency types.

The survey did not find any conclusive evidence to support the existence of a 'policy advocacy' agency type. If a comprehensive list of all such types were available, then further statistical comparisons could be made using the survey data. Diagram II of the post-state sector reform model presented on page 67 is therefore preferred.

Overall, the survey data suggests that the defence of policy argument can be laid to rest, where the majority of the core agencies do not actively engage in this. A perception that an agency is defending a policy may arise from time to time, given the clear focus of the core public sector in explaining and promoting policy, and the emphasis on consultation. While perception is as important as reality within the public sector, it is important that public sector agencies do not merely adopt a reactive mode and respond to the first public criticism by withdrawing from other legitimate communications activities.

The survey data shows that for core agencies, the 'fine line' *can* be drawn between explanation and defence. It is important to differentiate between *policy* and *actions*.

- Where an actual *policy* is involved, regardless of agency type, ministers must defend it when it is subject to public or political criticism. This does not prohibit a public sector agency from taking the opportunity to *explain* the policy, as indeed it must, if requested. Explanation will only develop the appearance of defence if, for example, a public sector agency were to mount an expensive proactive (unsolicited) campaign of explanation at a time of intense *policy* criticism (this would not apply in cases of intense criticism of *operational* issues). Such a perception could undermine the perceived neutrality of the public sector. There are no barriers to a political campaign in defence of a policy being mounted by the government, but this could not actively involve officials or department funds, and is most likely to be conducted through use of ministerial press secretaries and the media.

- Where a public sector agency itself is being criticised, then public *defence* is appropriate behaviour for an operational or mixed objective agency (provided the issue is an *operational* one). This does not restrict the ability of the minister to defend the agency, either in place of the agency, or in addition to it. In the case of policy agencies, the minister remains the appropriate voice of defence. This is because there are not likely to be any operational issues involved.
- Given the role of the chief executive as employer, any criticism of staff, regardless of public sector agency type, is *defended* by the chief executive. It would be inappropriate for the minister to become involved unless the matter were raised in the House where the minister's role is circumscribed by the State Sector Act 1988 and Standing Orders.

D CROWN ENTITIES

<i>Activity</i>	<i>%</i>
Client communication.....	90
Consultation of interest groups for service proposals.....	80
Consultation of interest groups for policy proposals.....	70
Front-up to the media if required.....	70
Marketing of services.....	60
Marketing of product.....	60
Provide public education services.....	60
Explain government policy.....	60
Explain agency's actions in media.....	60
Promotion of agency in the media.....	50
Corporate positioning/ awareness advertising.....	50
Explain policy proposals.....	50
Consultation of interest groups for legislative requirements.....	40
Promote government policy.....	30
Promote policy proposals.....	30
Lobby for specific policy proposals.....	20

There were ten agencies represented in the above data.

Interestingly, the range of activities undertaken by at least half of the Crown entities surveyed was very similar to that of the core operational agencies. This would indicate that similar conventions may apply to both groups, as well as a similarity in communications resourcing. The Crown

entities did perceive a limited role for themselves in promoting both government policy and policy proposals.

Defence of the agency was expected in the results and its non-appearance may reflect the pre-state sector reform heritage of these Crown entities. There is no reason to doubt that long term, many of the Crown entities will come to consider self-defence a legitimate activity as core mixed objective (and to a certain extent operational) agencies and SOEs have done. It is certainly not the role of the minister to assume vicarious responsibility for these agencies in the post-state sector reform environment.

D STATE-OWNED ENTERPRISES

<i>Activity</i>	<i>%</i>
Client communication	92.86
Corporate positioning/ awareness advertising	85.71
Front-up to the media if required	78.57
Marketing of services	71.43
Promotion of agency in the media	71.43
Explain agency's actions in media	71.43
Marketing of product	64.29
Defence of agency in media	57.14
Consultation of interest groups for service proposals	50
Consultation of interest groups for policy proposals	50
Lobby for specific policy proposals	35.71
Provide public education services	35.71
Consultation of interest groups for legislative requirements	21.42

There were 14 agencies represented in the above data.

The key difference between SOEs and other agencies is that policy does not feature, except in the sense of lobbying. These results are very reliable as out of a total of 15 possible SOEs, only one did not return the survey⁹⁰. Corporate positioning/ awareness advertising is considerably ahead of Crown entities, and no doubt reflects the greater commercial focus of SOEs. Working with the media also rates higher as a communications activity, with all four options undertaken by more than half of all SOEs. This may be a result of the initial high negativity in media coverage surrounding the corporatisation process and on-going scrutiny by the

media. Another possible explanation is the greater distance between ministers and SOEs than is perceived to exist for other agency types, necessitating greater public answerability through the media, as opposed to through Parliament itself.

D CROWN RESEARCH INSTITUTES

<i>Activity</i>	<i>%</i>
Marketing of services.....	100
Marketing of product.....	100
Corporate positioning/ awareness advertising.....	100
Promotion of agency in the media.....	100
Client communication.....	100
Front-up to the media if required.....	83.33
Provide public education services.....	66.67
Consultation of interest groups for service proposals.....	66.67
Explain agency's actions in media.....	50
Consultation of interest groups for legislative requirements.....	50
Consultation of interest groups for policy proposals.....	33.33
Defence of agency in media.....	33.33

There were six agencies represented in the above data.

Due to the low level of response from this category of agency, it is difficult to draw any conclusions. However the commercial focus is still obvious, as they share seven of the SOEs' top activities. In addition, providing public education services and consultation with interest groups for service proposals are activities shared by more than half of all Crown entities surveyed. The CRIs are still very much in their infancy and their focus on communications can be expected to develop further over time. Indications are that they will continue to follow the SOE conventions although as Crown entities, they would be expected to develop in the Crown entity model.

—Funding

A total of 68.83% of survey respondents supplied some form of data for the 1993/94 financial year. The range of responses varied quite considerably and the following data is supplied out of interest. It would

not be appropriate to draw any conclusions from the financial information as in many cases, the definition of communications was not qualified and may include word processing, telecommunications, postal, library and other peripheral activities, or may exclude overheads, staff costs, or one-off projects. The overwhelming majority were unable to isolate expenditure on media relations. While 66.22% (49 out of 74) of those who supplied information were either separately budgeted for communications or in their own output class, doubt exists as to whether all the agency's communications expenditure was aggregated or just the Communications Manager's budget supplied. In many cases respondents explained that communications expenditure was located as part of project budgets and was therefore not aggregated. One respondent said there was no expenditure on communications, despite having its own output class funding⁹¹. Three SOEs, one Crown entity and one CRI cited commercial sensitivity as the reason for not revealing all of the information requested.

Perhaps the only conclusion that can be legitimately drawn from the survey returns is that the vast majority of actual communications expenditure is not recorded or able to be recorded. It is also not likely to be separated out into its component parts, such as internal or external communications, client communications, marketing etc.

■ CORE-POLICY

Eight out of 14 (57.14%) supplied financial information; two did not offer any explanation as to why no information was supplied; two noted that communications expenditure was not identified and two suggested there was no spending at all, despite indicating how it was budgeted. In total: five could be described as separately budgeted; one in its own output class; and seven as mixed in with other agency budgets.

Of those able to supply financial information, the percentage of total agency budget spent varied significantly between 0.2% and 7.21%, with a mean total expenditure of \$341,750, or an average of 2.73% of agency budget. Total communications expenditure ranged from \$30,000 to \$900,000 and total agency budgets varied from as little as \$1.3 million to \$46 million.

► CORE-OPERATIONAL

Financial information was supplied by 69.23% of respondents (nine out of 13); two did not offer any explanation as to why no information was supplied; one stated that there was no spending at all; and another noted difficulty in defining the costs and offered to discuss it. In total: nine were separately budgeted; two could be properly described as having its own output class; and three as mixed in with other agency budgets.

Of those able to supply financial information, the percentage of total agency budget spent varied significantly between 0.06% and 12% (average 2.26%), with a mean total expenditure of \$693,444. In this grouping there was one agency with a budget of nearly three-quarters of a billion dollars and another as low as \$1.5 million. Total communications expenditure varied between \$15,000 and nearly \$3 million.

► CORE-MIXED OBJECTIVE

Financial information was supplied by 16 out of 20 respondents (80%); one did not offer any explanation as to why no information was supplied; one was 'unable to answer' the question; one said information was not available, and one noted the response as 'N/A', despite indicating that communications was separately budgeted. In total: eight could be described as separately budgeted; two within its own output class; and eight as mixed in with other agency budgets.

Of those able to supply financial information, the percentage of total agency budget spent varied significantly between 0.14% and 6% (average of 2.91%), with a mean total expenditure of \$727,466. In this grouping there were three agencies with budgets of around half a billion dollars and another as low as \$3.2 million. Total communications expenditure varied between \$40,000 and nearly \$3.4 million.

► CORE-SUMMARY

Of the 45 core agencies which indicated the way in which their budgets were allocated: just under half (48.49%) were separately budgeted; 11.11% were in their own output class (five in total); and 40% mixed in with other agency budgets. As could have been expected with a greater client focus, operational agencies and those with mixed objectives spend more, on average, than policy agencies.

■ CROWN ENTITIES

A total of 70% of respondents (seven out of ten) provided financial information; two did not offer any explanation as to why no information was supplied; and one declined to answer on the grounds of commercial sensitivity. In total: six could be described as separately budgeted; one within its own output class; and three as mixed in with other agency budgets.

Of those able to supply financial information, the percentage of total agency budget spent varied significantly between 0.22% and 8.4% (average of 3.26%), with a mean total expenditure of \$1,468,200. In this grouping total agency budgets varied from around \$6 million to \$1.5 billion. Total communications expenditure varied between \$58,000 and \$3.4 million.

■ STATE-OWNED ENTERPRISES

A total of 64.28% of respondents (nine out of 14) provided financial information; one was 'unable to answer' the question; one did not maintain a breakdown of costs in the manner set out; and three declined to answer on the grounds of commercial sensitivity. In total: ten could be described as separately budgeted; one within its own output class; and two as mixed in with other agency budgets.

Of those able to supply financial information, the percentage of total agency budget spent varied significantly between 0.5% and 28%, with a mean total expenditure of \$1,194,000. In this grouping total agency budgets, when supplied, varied from \$2.5 million to just over a quarter of a billion dollars. Total communications expenditure varied from around \$500,000 to \$5.4 million.

■ CROWN RESEARCH INSTITUTES

Four out of six (66.67%) respondents provided financial information. One stated that they 'can't answer' indicating that expenditure was both separately budgeted and mixed in with other agency budgets and a further provided no reason for not supplying the information. Four could be described as separately budgeted and two as mixed in with other agency budgets.

The percentage of total agency budget spent was unable to be calculated, and there was a mean total expenditure of \$566,250. In this grouping total communications expenditure varied from \$70,000 to \$1.25 million.

—Knowledge of legal parameters

Question five in the survey was designed to ascertain briefly whether communications managers and their agencies had an overview of the legal parameters they operated within with regard to communications. The list presented was not exhaustive, but does cover the primary legal boundaries. In many cases specific legislation will have significant bearing on communications, such as the Resource Management Act 1991, the Companies Act 1993 and the Consumer Guarantees Act 1994 for example.

Some respondents may have felt confused about the inclusion of judicial review (Judicature Act 1908), sub-judice provisions, and the Treaty of Waitangi Act 1975. Judicial review can apply to communications activities by or on behalf of the Crown. According to McGee, "State enterprises, as public bodies...are, in principle, amenable to judicial review."⁹²

Any matter which is before the courts or within the expiry period prior to appeal is sub-judice and this is especially relevant when responding to media inquiries about an agency's activities, clients, staff etc. Agencies which are not aware of matters that are sub-judice risk contempt of court if they unwittingly communicate on such a matter. This could take the form of defending, promoting, criticising or even explaining some policy or action.

Section 6 of the Treaty of Waitangi Act 1975 is extremely broad and covers any adopted or proposed policy or practice carried out by or on behalf of the Crown. The Waitangi Tribunal can hear a claim that any such matter breaches the principles of the Treaty of Waitangi. As consultation with interest groups features very highly for all agency types in their communications activities, it is important they understand the principles of the Treaty and reflect its spirit in such consultations and other communications.

All of the agencies surveyed were subject to the Ombudsmen Act 1975, the Official Information Act 1982 and the Privacy Act 1993. The relevance of the Cabinet Office and Audit Office guidelines for government advertising is debatable outside the core public sector and it is by no means certain whether they should be applied to those agencies outside the Public Finance Act 1989 (i.e. SOEs), or to those listed in the sixth schedule who do not receive public appropriations (the Crown entities and CRIs surveyed). See Chapter Five for a discussion on this.

The survey question may have needed further explanation as one CRI and one Crown entity did not attempt to answer it at all.

The survey responses are summarised in percentages (%) in Table I:

- P = core policy agencies
- O = core operational agencies
- M = mixed objective agencies
- SOE = state-owned enterprises
- CE = Crown entities
- CRI = Crown research institutes

Table I: Knowledge of legal parameters

Relevance indicated	P	O	M	SOE	CE	CRI
Ombudsmen Act 1975	64.29	69.23	80	57.14	60	33.33
Official Information Act 1982	100	100	100	100	90	83.33
Audit/ Cabinet Office guidelines	71.43	76.92	90	28.57	50	50
judicial review	42.86	38.46	50	35.71	30	33.33
sub-judice provisions	28.57	53.85	45	42.86	30	16.67
Treaty of Waitangi Act 1975	64.29	69.23	80	64.29	50	83.33
Privacy Act 1993	85.71	100	100	92.86	70	83.33

► CORE-POLICY

This agency group, which is closest to the pre-state sector reform public sector, scored rather poorly in knowledge of the legal parameters. It had nearly the lowest appreciation in all categories amongst the three core groups, where it might have been expected that 100% for all factors would be recorded.

► CORE-OPERATIONAL

This group's appreciation is surprisingly better than that of the core policy agencies, but only marginally so. Again, 100% might have been expected for all factors.

► CORE-MIXED OBJECTIVE

Overall, these agencies had a better appreciation of the public sector communications environment than any of the other two core agency groupings, although 100% might have been the expected result for all factors.

► CORE-SUMMARY

There is scope for improving the knowledge of these key communications practitioners who are often engaged in providing communications policy and strategic advice to senior management. This knowledge-gap may have come about as a result of the relatively recent growth in public sector communications activities and the likelihood that communications staff have limited previous public sector experience (at least not pre-state sector reform). The survey did not gather data on this point, so the reasoning remains speculative.

► CROWN ENTITIES

The appreciation of the legal environment is not dissimilar from the core public sector agencies. Interestingly, only half considered that the Cabinet and Audit Office guidelines applied. As these organisations are subject to the Public Finance Act 1989, it would be expected that the Guidelines would apply. Additionally, the relationship between these agencies and the relevant minister is much closer than, for example, SOEs. One Crown entity was unsure what the question meant and did not respond.

► STATE-OWNED ENTERPRISES

Despite a very poor appreciation of the relevance of the Ombudsmen Act 1975 to the communications environment, SOEs shared this (lack of) appreciation with other state sector agencies. Surprisingly, about a third considered that the Cabinet/ Audit Office guidelines applied to their operations, although it is not likely that they do in fact apply. SOEs are governed by their own legislation, producing statements of corporate intent and their relationship to the minister is very much arms-length.

The role of the Auditor-General is significantly limited in relation to these agencies.

■ CROWN RESEARCH INSTITUTES

Given the low response rate to the survey it is difficult to establish a clear picture of the CRIs' knowledge in this area. Early indications are that it is not strong, and 100% on all factors might have been the expected response.

—Attitudes to official information request

The initial survey was sent to 86 agencies requesting information to be provided under the Official Information Act 1982. Each survey was addressed to the attention of the Communications/ Marketing Manager and a self-addressed, pre-paid envelope was included. The covering letter, similarly addressed to the Communications/ Marketing Manager explained that it was all right not to answer all questions, but to simply indicate where they were unable to do so.

The expectation was that all surveys would be returned, given the statutory responsibility of each of the agencies to comply with the Official Information Act 1982, although it was anticipated that varying degrees of information would be provided. The decision to request the information under the Act was made as a test of each agency's attitude towards supplying information under the Act, and also to facilitate a rate of return superior to most surveys. The nominated date for return of the survey was within the 21 working days allowed by the Act, and the expectation was that where an agency required a full 21 working days they would avail themselves of this. One month after the requested response date a reminder letter was sent to all 29 agencies who had not yet responded.

A number of those who responded to this reminder letter, which formally requested their reasons under the Act for withholding information, claimed they had not received the original request, which had been dispatched personally by the author using NZ Post's 'Boxlink' system. These agencies may be evidence that either the Wellington postal system or their internal delivery systems do not work very well.

Some surveys were not received until two months after the original deadline, although the number of working days available over the Xmas-New Year season is limited.

The response rate is summarised in Table II:

- I = Number of surveys dispatched
- II = Number of surveys initially returned
- III = Number returned after reminder letter sent
- IV = Number of surveys never returned

Table II: Survey response rates

Agency type	I	II	II %	III	Total	Total %	IV
core-policy	14	9	60	5	14	100	0
core-operational	15	10	66.67	3	13	86.67	2
core-mixed objective	20	18	94.74	2	20	100	0
<i>core-TOTAL</i>	49	37	75.51	10	47	95.92	2
Crown entities	13	6	46.15	4	10	69.23	3
state-owned enterprises	15*	12	80	2	14	93.33	1
Crown research institutes	9^	2	22.22	4	6	66.67	3
TOTAL	86	57	66.28	20	77	89.53	9

* = includes Government Computing Service Limited which returned its survey completed prior to privatisation on 9/11/94, but does not include Radio New Zealand Limited (see footnote 90).

^ = does not include the New Zealand Institute for Social Research and Development Limited which was disestablished during the survey period.

A Chi-Square statistical test was conducted to determine whether there was any statistical difference between the final rate of return for the different groups (see Appendix Four, Calculation Two). For this purpose the core was aggregated together and compared with the other three groups. The test was unable to make any conclusive findings with regard to the difference in return rates between the groups.

As well, the mean rate of return was calculated at 89.53% and the individual results compared one by one against it. Crown entities and CRIs differed statistically from the population proportion of 89.53%, whereas the return rate from SOEs and core agencies did not (see Appendix Four, Calculation Three).

■ CORE-POLICY

While the initial rate of return for this group was not very high, the follow-up inquiry improved the response rate to 100%. There were no issues raised with regard to the Act by this group.

■ CORE-OPERATIONAL

These agencies had a marginally higher initial response rate than policy agencies, and the final rate was slightly below at 86.67%. Two respondents took offence at the survey request and committed this to paper, both claiming never to have received the original request. One mentioned the 'rather terse' reminder letter⁹³, and the second chastised the author for not bothering to find out her name and job title before sending either the initial letter or reminder. This second person, as well as providing insights into the futility of expecting high response rates from surveys, also dubbed the author's request, "...not only cheeky, but also a little dubious to demand a response under the Official Information Act for a student thesis."⁹⁴ This possibly demonstrates a lack of working knowledge about the Act: the fact that correspondence does not have to be addressed to any particular official; that no reasons need to be provided as to why the information is being sought or what its intended end use is; or that student requests are in any way less actionable than those by any other member of the community, provided they meet the citizenship and other requirements of section 21.

Those agencies which did not respond to either of the two requests were: New Zealand Customs; and New Zealand Immigration Service.

■ CORE-MIXED OBJECTIVE

By far the most impressive result was that of core mixed objective agencies which responded promptly and with the highest initial result rate, reaching 100% after follow-up. This was also numerically the largest category. One agency (the only one out of all respondents) provided an interim reply which noted that the statutory response period provided a greater time period than the deadline requested.⁹⁵ This fuller time period was used and the response arrived on 2 December, exactly 21 working days after the request was received. This agency operated a very formalised approach to responding to information requests citing the Act.

■ CORE-SUMMARY

The core agencies, as would be expected, responded well to the request for official information, and generally in a manner appropriate to the tone of the original request. Where information was difficult to provide or not available this was merely noted on the survey form. A number also took the opportunity to telephone the author to clarify the type of information which would be useful.

■ CROWN ENTITIES

There were no major issues regarding Crown entities, which saw the second to lowest return rate. Those who did not respond to either request were: Education and Training Support Agency; Housing Corporation of New Zealand; and the Land Transport Safety Authority.

■ STATE-OWNED ENTERPRISES

Next to the core mixed objective agencies, SOEs defied the common perception that they find the Act too onerous.⁹⁶ Their impressive and prompt rate of return was marred by only one SOE: Radio New Zealand Limited (see footnote 90). This result demonstrates how well-organised these agencies are in terms of working with the Act. In one case the Company Secretary and in another, the General Manager, responded to the survey personally. There were no issues raised by this group and it was unexpected that so few cited commercial sensitivity as a barrier to supplying information.

■ CROWN RESEARCH INSTITUTES

A great disappointment was the result for this group, the lowest rate recorded. This is possibly a reflection of the relatively recent nature of their organisations, since the Department of Scientific and Industrial Research was disbanded on 30 June 1992. Those who did not return the survey despite the reminder letter were: New Zealand Forest Research Institute Ltd; Institute of Geological and Nuclear Sciences Ltd; and New Zealand Pastoral Agriculture Research Institute Ltd.

One issue raised by telephone was to question when the author would make an 'official' request. Upon inquiry, the caller was under the illusion that the Act required an official form to be completed before the agency was compelled to supply any information. Once that matter was cleared

up, the author was promptly told that it was all commercially sensitive anyway and the information would not be supplied. Again this demonstrates a lack of a working knowledge of the Act and its application to communications issues.⁹⁷ No formal notification of this decision was ever received. It is doubtful that commercial sensitivity would be upheld as a legitimate reason for withholding information in such a case as each request for official information should be individually assessed, and especially as the vast majority of state sector agencies surveyed were able to comply either fully or partially with the request.

A second CRI also expressed that they were, "...more than a little surprised at the tone..."⁹⁸ of the reminder letter, ascribing the delay in response to a problem with internal mail delivery and the holiday season. Again this showed an unfamiliarity with the Act, as reasons for *withholding* the information were requested, that is to say, a reference to section 9 of the Act, not a demand for an explanation of their tardiness!

GOVERNMENT COMMUNICATIONS CONVENTIONS: POST-STATE SECTOR REFORM

The survey data and literature analysis have been invaluable in identifying likely conventions for government communications in the 1990s and beyond. If such conventions were accepted by constitutional writers, then it would necessitate an alteration to the conventions of anonymity, ministerial responsibility and the role of officials in both *policy* advocacy and *administrative* defence; and, of course, an acceptance of the three different core public sector types.

The classification, which distinguishes between the various ministerial roles, depending on agency type, and the different roles for different agency types based on what communications managers claim is current practice, is outlined overleaf:

Core Public Sector Agencies

Ombudsmen Act 1975 • Official Information Act 1982 • Judicature Act 1908
 • Treaty of Waitangi Act 1975 • Privacy Act 1993 • sub-judice provisions
 • Cabinet and Audit Office Guidelines for Government Advertising

Policy	Operational	Mixed objective
<p>Consultation with interest groups for agency's own or government policy proposals, and to meet legislative requirements</p> <p><i>Explanation and transparent promotion of own agency's or government's policy proposals</i></p> <p><i>Explanation and transparent promotion of existing government policy</i></p> <p>Client communication</p> <p>Public education services</p> <p>Available to the media to <i>explain</i> agency's actions not for protection of minister</p> <p><i>Defend</i> employee issues but not agency's actions</p> <p>Credit for achieving outputs</p>	<p>Consultation with interest groups for agency's own or government policy, or service proposals, and to meet legislative requirements</p> <p><i>Explanation and transparent promotion of existing government policy</i></p> <p>Client communication</p> <p>Corporate positioning and awareness</p> <p>advertising</p> <p>Marketing services and product</p> <p>Public education services</p> <p>Available to the media to <i>explain</i> agency's actions not for protection of minister</p> <p><i>Self-promotion and self-defence</i> in media</p> <p><i>Defend</i> employee issues and agency's actions</p> <p>Credit for achieving outputs</p>	<p>Consultation with interest groups for agency's own or government policy, or service proposals, and to meet legislative requirements</p> <p><i>Explanation and transparent promotion of own agency's or government's policy proposals</i></p> <p><i>Explanation and transparent promotion of existing government policy</i></p> <p>Client communication</p> <p>Corporate positioning and awareness</p> <p>advertising</p> <p>Marketing services</p> <p>Public education services</p> <p>Available to the media to <i>explain</i> agency's actions not for protection of minister</p> <p><i>Self-promotion and self-defence</i> in media</p> <p><i>Defend</i> employee issues and agency's actions</p> <p>Credit for achieving outputs</p>

Core Public Sector Agencies ...when carrying out statutorily independent functions	
Agency: Keep minister <i>informed</i> of decisions and actions prior to announcement/ implementation <i>Defend</i> agency's actions	
Minister: Responsibility determined by relevant statute <i>Defence</i> of agency's actions only if raised in the House	

Ministers of Core Public Sector Agencies		
Policy	Operational	Mixed objective
Promote/ defend/ explain/ attack party, government and/or opposition policy or proposals Defend agency's actions but not for employee issues Primary and vicarious Ministerial responsibility Self-promotion and self-defence Answerable in Parliament	Promote/ defend/ explain/ attack party, government and/or opposition policy or proposals <i>Optional</i> to defend agency's actions but not for employee issues Primary not vicarious Ministerial responsibility Self-promotion and self-defence Answerable in Parliament	Promote/ defend/ explain/ attack party, government and/or opposition policy or proposals <i>Optional</i> to defend agency's actions but not for employee issues Primary not vicarious Ministerial responsibility Self-promotion and self-defence Answerable in Parliament

Enlarged State Sector

Ombudsmen Act 1975 • Official Information Act 1982 • Judicature Act 1908
• Treaty of Waitangi Act 1975 • Privacy Act 1993 • sub-judice provisions

<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <ul style="list-style-type: none"> • State-Owned Enterprises Act 1986 </div> <p style="text-align: center;">State-owned enterprises</p> <p>Client communication Corporate positioning/ awareness advertising Consultation with interest groups for own agency's or government policy, or service proposals, and to meet legislative requirements Marketing services and products Self-promotion and self-defence in media Available to the media to explain agency's actions Provide public education services Lobby for specific policy proposals Credit for achievement of business objectives</p>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <ul style="list-style-type: none"> • Cabinet and Audit Office Guidelines for Government Advertising • specific legislation </div> <p style="text-align: center;">Crown entities (including Crown research institutes)</p> <p>Client communication Corporate positioning/ awareness advertising Consultation with interest groups for own agency's or government policy, or service proposals, and to meet legislative requirements Marketing services and products Self-promotion and self-defence in media Available to the media to explain agency's actions Provide public education services <i>Explanation</i> and transparent <i>promotion</i> of own agency's or government's policy proposals <i>Explanation</i> and transparent <i>promotion</i> of existing government policy Credit for achievement of outputs</p>
<div style="border: 1px solid black; padding: 5px;"> Ministers </div>	
<div style="border: 1px solid black; padding: 10px;"> Responsibility defined by statute Arms-length Answerable in Parliament </div>	

Endnotes

- 1 Palmer (1987) Unbridled Power, p.85
- 2 Deane 'Public Sector Reform: A Review of the Issues' in Clark & Sinclair Purpose Performance and Profit, p.14
- 3 Mulgan (1989) Democracy and Power in New Zealand, p.78
- 4 Treasury Government Management, p.76
- 5 Martin (1990) 'Remaking the State Services' in Holland & Boston The Fourth Labour Government, p.127
- 6 See Galvin Policy Co-ordination, Public Sector and Government, and Boston (1992) 'The Problems of Policy Coordination: The New Zealand Experience' in Governance
- 7 The minister (as principal) enters into a contract (or agreed relationship) with the chief executive (the agent).
- 8 Martin (1990) Op. Cit., p.128
- 9 In a discussion on this point with the author, Martin suggests that his identification of the Ministry of Women's Affairs in this role was vigorously challenged by the then Chief Executive Judith Aitkin.
- 10 Martin (1988) A Profession of Statecraft? p.25
- 11 Martin (1990) Op. Cit., p.128
- 12 Martin (1991) Public Service and the Public Servant, p.14
- 13 C Scott 'Review of the Purchase of Policy Advice from Government Departments' in Public Sector, p.19
- 14 SSC (1994) The Senior Public Servant, p.13
- 15 The literature only quotes examples which are repetitive of each other (see endnotes 10-14) listing: Ministry of Women's Affairs 5 times; Ministry of Youth Affairs and Ministry of Pacific Island Affairs 3 times each; ministries of Consumer Affairs, Maori Affairs/Development, Environment and the Department of Conservation 2 times each.
- 16 Boston (1991) 'Reorganizing the Machinery of Government' in Boston *et al* Reshaping the State, pp.246-247
- 17 Ibid., p.254
- 18 Ibid., p.257
- 19 Ibid., p.263
- 20 Ibid., pp.250-252
- 21 Ibid., p.241
- 22 Martin (1994-b) 'Ethics in Public Service: the New Zealand Experience' in Preston Ethics for the Public Sector: Education and Training, p.99
- 23 Ibid.
- 24 The survey was sent to those agencies commonly referred to as 'core' public service (i.e. listed in the First Schedule of the State Sector Act 1988, as well as the Police Department covering civilian staff). Where a public sector department was split into separate business operations with distinct identities, they were separately surveyed. For a complete list of surveyed organisations, see Appendix One. For a copy of the survey, covering letter and methodology, see Appendix Two. Results are attached as Appendix Three and statistical analysis as Appendix Four.
- 25 Three core agencies coded themselves as 'Crown entity', however as they are covered by the First Schedule to the State Sector Act 1988 I have re-coded them all to 'Primarily operational'. They were: Community Employment Group (Department of Labour); Public Trust Office; and Statistics New Zealand.
- 26 These were: New Zealand Immigration Service and New Zealand Customs.
- 27 Crown entities are listed in the fourth schedule to the Public Finance Act 1989.
- 28 Martin (1990) Op. Cit., p.129

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- 29 Ibid., p.131
- 30 Martin (1994-a) 'The Role of the State in Administration' in Sharp Leap into the Dark, p.46
- 31 Ibid., p.48
- 32 Ibid.
- 33 Ibid., p.49
- 34 Scott, Bushnell and Sallee
'Reform of the Core Public Sector' in Governance, p.157
- 35 Martin (1994-b) Op. Cit., p.106
- 36 Martin (1991) Op. Cit., p.30
- 37 Martin (1994-b) Op. Cit., p.92
- 38 Ibid., p.95
- 39 Martin (1990) Op. Cit., p.131
- 40 Ibid., p.130
- 41 Martin (1991) Op. Cit., p.30
- 42 Ibid.
- 43 Ibid., p.51
- 44 Martin (1994-b) Op. Cit., p.111
- 45 Cabinet Office Manual, 2/5-2/6
- 46 SSC (1993-a) 'The Public Service and Government' in State Sector Circular, p.3
- 47 Ibid., p.4
- 48 SSC (1994) Op. Cit., p.6
- 49 Ibid., p.12
- 50 Ibid., p.10
- 51 Ibid., p.23
- 52 Ibid., p.39
- 53 Ibid., p.30
- 54 Ibid., p.38
- 55 Ibid., p.13
- 56 SSC (1993-a) Op. Cit., p.7
- 57 Ibid., p.8
- 58 KJ Scott The New Zealand Constitution, p.145
- 59 SSC (1994) Op. Cit., p.11
- 60 Interviewed in Wellington, 4/8/94
- 61 Ibid.
- 62 Mulgan (1989) Op. Cit., p.163
- 63 Ibid., p.76
- 64 Ibid., pp.76-77
- 65 Atkinson (1994-a) 'The state, the media and thin democracy' in Sharp Op. Cit., pp.147-148
- 66 Department of Statistics
New Zealand Yearbook 1993, p.239
- 67 Ibid., p.240
- 68 Ibid., p.243
- 69 Ibid., p.244
- 70 Atkinson (1989) 'Mass Communications, Economic Liberalisation and the New Mediators' in Political Science, p.95
- 71 Sharp Op. Cit., p.44
- 72 Palmer (1992) New Zealand's Constitution in Crisis, p.8
- 73 Ibid., p.19
- 74 Douglas (1993) Unfinished Business, p.259
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- 75 Fraser 'The pitfalls of fame: newsmakers and the media' in
Broadcasting Standards Authority Power and Responsibility,
p.159
- 76 Interviewed in Wellington, 13/12/94
- 77 Ibid.
- 78 Mulgan (1989) Op. Cit., p.73
- 79 Ibid.
- 80 Palmer (1992) Op. Cit., p.164
- 81 Ibid., p.208
- 82 McGregor Crime News as Prime News, p.3
- 83 Ibid., p.21
- 84 Atkinson (1994-a) Op. Cit., p.162
- 85 Smith 'The quest for fair play', Listener, 2/7/94, p.35
- 86 Atkinson (1994-a) Op. Cit., p.174
- 87 'The business of news', Evening Post, 3/3/94, p.2
- 88 The options were: promote; defend; explain; attack; lobby for.
- 89 Only four were involved: the ministries of Youth Affairs, Women's Affairs, Maori
Development and Environment. The Department of Conservation and ministries of
Consumer Affairs and Pacific Island Affairs were self-coded as mixed objective.
- 90 A letter was received from Radio New Zealand Limited dated 3/2/95 stating
that: 'Radio New Zealand Ltd does not actively engage in communications
activities, other than the broadcast of radio programmes, which clearly is not the
intention of your survey.' As the statistical calculations had been completed for
the SOE grouping by this time, all results exclude Radio New Zealand Limited.
- 91 Department of the Prime Minister and Cabinet. Peter Diessl, Communications
Manager explains that while output class funding is provided, it is all essentially
overhead, as his Unit's role is to assist other public sector agencies with their
communications and not to undertake any on behalf of his Department.
- 92 McGee (1994) Parliamentary Practice in New Zealand, p.368
- 93 New Zealand Income Support Service, 10/1/95
- 94 National Library of New Zealand, 5/1/95
- 95 Ministry of Defence, 7/11/94
- 96 This perception is probably the result of submissions presented to the State-Owned
Enterprises (Ombudsmen and Official Information Acts) Committee which
reported to Parliament in 1990.
- 97 New Zealand Institute of Geological and Nuclear Sciences Ltd, January 1995
- 98 New Zealand Institute for Industrial Research and Development Ltd, 25/1/95

CHAPTER FIVE

—Issues in New Zealand government communications

A number of issues need to be addressed if the New Zealand democratic ideal of enhanced public participation and strong democracy is to be achieved. A well-informed public is the first step towards this.

The public sector's role in communicating with the public has been confused by the existence of the traditional communications conventions, which rely on a perception of a homogeneous public sector and outdated notions of ministerial responsibility and public service

CONFLICT BETWEEN NEW AND TRADITIONAL COMMUNICATIONS CONVENTIONS

—Public sector agencies

Agencies themselves find it difficult to determine what communications conventions there are and which apply to their operations. A 1992 analysis by Treasury's Communications Director, Nikitin Sallee suggested that the constitutional status of each department placed constraints on their communications strategies. He did not detail what these constraints were, but did offer some suggestions as to the appropriate behaviour certain agency types might exhibit. Sallee did not label the agency types. However, from his descriptions they can be described as commercial, enforcement, operational, and policy agencies. These distinctions, with Sallee's descriptions attached are: *commercial*—those with paying customers the agency needs to attract, retain and inform such as the Reserve Bank and the Treasury's Debt Management Office; *enforcement*—those departments with a role in ensuring citizens comply with the law such as IRD (tax compliance) and the Police (road toll reduction); *operational*—agencies which must advise citizens of their entitlements such as the Department of Social Welfare; *policy*—conservative agencies with a role in assisting in informed public debate such as Treasury.¹

It is significant that although Sallee's analysis does not accord with the conventions presented in this thesis, there was at least some recognition that different agency types exist within the public sector and that different communications conventions will apply to each. Despite his analysis, Sallee continued to treat the public sector as a homogeneous whole as he described the 'appropriate role for public servants' in providing *background* to government policy decisions, but not *advocacy, defence or criticism* of government decisions.² He stated that people were entitled to information under the Official Information Act 1982, and that in many cases additional background information or data should be supplied. He did not discuss the use of proactive strategies to provide public information and appeared to take a reactive communications stance with regard to his agency type. Sallee's perception of Treasury's role meant that it would knowingly allow misinformation to remain in the public

domain, because constitutional restrictions can require a 'steel chin'. The public's right to know or at least to have correct information placed in front of it was restricted by, "...the constitutional boundaries between what is proper territory for a public servant and what is the Minister's prerogative."³ He believed that 'giving in' and crossing the boundary (which was not defined), would lead to a long-term undermining of the department's credibility and the public service. While this may have been the case under the pre-state sector reform conventions and at the time of Sallee's presentation, it would be of greater benefit today to define the boundaries so that agencies, ministers and the public have clear perceptions as to what is and isn't appropriate behaviour. Accepting the conventions in Chapter Four would be a move in this direction.

David Henry, while Chief Executive of the Inland Revenue Department (IRD), described the dilemma for public sector organisations spending money on glossy publications or image building. This:

...can do much damage to that organisation's credibility. Yet a low budget, low key campaign may be perceived as bureaucratic bungling, the stifling of information dissemination and may not help voluntary compliance...⁴

Despite Henry's description of IRD as a 'core' department, it is more fittingly described as a mixed objective core public sector agency which also has statutorily independent functions. Henry likened the communications needs to that of the private sector: "For example, we identify specific "customer groups" through market research, identify their needs and seek to meet them in the most appropriate way. The communication methods used are also similar."⁵ These methods include: direct mail; print, radio and television advertising; news releases and backgrounders for journalists. These methods apply most appropriately to the operational aspects of IRD. Henry states that in relation to IRD's statutory role, it was important that IRD *explains* the law, but does not *justify* it.⁶ Henry also outlined IRD's proactive approach to media relations and presented his view that it was important for senior management to be seen to be accountable to the public through the media.⁷ This view does not accord with the traditional principle of public service anonymity. In an agency with statutorily independent functions, it is essential that officials are seen to defend administrative

actions rather than a minister, or risk their independence being misconstrued. Only in matters of extreme seriousness, such as when public confidence in an entire institution is at risk, or the matter is raised in the House (for example the Hon. Winston Peters' 'wine-box' charge of corruption against Henry), should ministers seek to defend the statutorily independent *activities* of an agency. Ministers should always protect the statutory independence *itself*.

—Ministers

Ministers are given little assistance in determining what is constitutionally proper in regard to the communications conducted within their portfolios. Post-state sector reforms, those in charge of core policy ministries have been able to rely, more or less, on the traditional communications conventions. Those in charge of mixed objective agencies, or core agencies with separate identifiable business units, will often face a dilemma which is not articulated. The Cabinet Office Manual, which outlines the parameters for ministerial behaviour, merely notes that the government has a responsibility to keep the public informed about important issues. It cites the use of the media or personal appearances at conferences and other gatherings to, "...explain and discuss government policies and plans."⁸ There is no mention of other forms of public relations activity. Additionally, there is no body of theory in New Zealand which clearly and unambiguously groups each government agency under a specific 'type' with defined constitutionally-correct communications behaviour specified for each.

Where an agency is statutorily independent, the legislation may provide a guide to the agency's proper role in respect of public information. Such legislative requirements can only apply to the operational nature of an agency's work, because policy advisory roles still fall within the traditional conventions. Some chief executives in meeting their performance contracts, need to engage in communications activities which make use of private-sector type active marketing techniques. This can involve 'positioning statements' such as "It's our job to be fair" (IRD), branding of products or services, and corporate logos. In recent times Ministers have had to take a largely hands-off approach to such activities

in much the same way that the marketing activities of SOEs are treated as not being the direct concern of the shareholding ministers.

Some core public sector agencies have an internal rule that any discretionary advertising expenditure above a certain amount (\$100,000 in the Department of Justice), must have ministerial approval, although there is no Cabinet directive requiring this. While such 'approval' is likely to be based on political considerations, the minister is often aware of the existence of other public sector advertising campaigns and may be able to facilitate co-ordination of resources. There is an argument that an astute chief executive, regardless of agency type, will inform the minister of any publicly-funded advertising campaign prior to commencement. While 'approval' as such is probably not required, it would be unwise of a chief executive not to heed and accommodate any specific ministerial concerns.

The Department of Prime Minister and Cabinet's Communications Unit, while not having any statutory responsibility or power, provides a communications co-ordination service. There is no suggestion that use of such a service will lead to politicization of any advertising, as an individual chief executive remains responsible for such outputs. Public sector communications managers could consider making greater use of this co-ordination service prior to commencement of any advertising campaigns, to ensure there are no obvious clashes with other public sector agencies, or to determine whether there is room for closer co-operation.

GUIDELINES FOR GOVERNMENT COMMUNICATIONS

On 28 April 1989 the Audit Office, concerned at the lack of formal guidance on government advertising and publicity, issued its Suggested guidelines for a convention on publicly-funded government advertising and publicity. The guidelines were the result of complaints to the Audit Office following the 'Mrs Mop' tax commercials of 1988 and were developed in consultation with communications professionals and an analysis of overseas guidelines. The Audit Office considered it was 'in the general public interest'⁹ to provide such guidelines, claiming they

applied, "...to the Government and its departments of State...[and]...may be applicable equally to other organisations in the public sector funded from the public purse."¹⁰ It can be argued that SOEs fall outside the definition of 'public sector', as well as perhaps Crown entities. A more useful definition of applicability would be 'those state sector agencies covered by the requirements of the Public Finance Act 1989'. Such a definition would allow Crown entities, which have a closer relationship with their ministers and the Audit Office than do SOEs, to be included with some degree of certainty.

The guidelines were followed, on 20 November, by a Cabinet Office Circular¹¹ which superseded those issued by the Audit Office. In practice however, public sector communications staff generally refer to both. Evan Voyce, long-time communications professional, commented in a presentation that, "...it is safer to adhere to the rules suggested by the adjudicator than the rules of a group likely to be the subject of adjudication."¹²

The Cabinet Office guidelines were briefer than the Audit Office's. Again, they purported to apply to the core public service, but were noted as being possibly a 'reference point' for other organisations which spend public funds on publicity. The onus is placed on ministers and departments themselves to be accountable. It is unlikely that such vague allusion to the state sector, coupled with no accountability mechanism, would encourage the enlarged state sector to unambiguously adopt the guidelines. Results from the survey support this.

The Audit Office stated that governments have a right and a duty to provide accurate information to the public. It considered this to involve *explaining* policy, and *informing* the public about government services, and the public's legal rights and liabilities.¹³ The 'fine line' so commonly cited in communications conventions reappeared again, this time between *explaining* and *informing*. In an ordinary understanding of the words, *explaining* may involve accounting for, or providing comment on; whereas *informing* may be considered to be providing information without comment. What the precise nature of the Audit Office's definitions are remains unclear. What is not permissible is any activity which is *designed to: promote, or has the effect of promoting,*

government interests; or secure, or has the effect of attempting to secure, popular *party-political support*. This could create problems for public sector agencies today, if the nuance of 'designed to' is not picked up. If an unintentional or unpredicted side-effect of a well-designed and managed public information campaign is any of the above, this should not inhibit the public sector agency from engaging further in that activity. Political pressure would undoubtedly be brought to bear on any public education campaign whose unintended side-effect was the reverse of the above scenarios. This would pose a dilemma for the public sector's independence and may be alleviated by clearly recording the reasons for decisions taken.

It is also a deficiency of the Audit Office guidelines that the full range of communications activities undertaken by the public sector is not noted, nor is the existence of agency types. It would be useful in such a document to explain the communications conventions it is based on. The small number of examples can serve to legitimate only those activities so named, and does not remove the confusion which the traditional conventions have created, regarding policy advocacy/ promotion and defence; and operational advocacy/ promotion and defence.

The Cabinet Office goes further than the Audit Office in illustrating appropriate publicity objectives. These may be to:

...*inform* the public of proposed/ new/ revised/ existing Government *policies*; *inform* the public of Government *services* available to them; *advise* the public of new/ revised/ existing *entitlements or responsibilities*; *encourage* the public to adopt certain kinds of social behaviour generally regarded as being in the public interest [eg road safety advertising] (*italics mine*)¹⁴

Explaining has been dropped as an activity, and the subtlety of meaning between *inform* and *advise* is unclear, but no doubt another 'fine line' is deemed to exist.

The key criteria for a public education campaign, according to both the Audit Office and Cabinet Office, is to only include material which is: accurate, factual, truthful; fair, honest, impartial; legal, proper.¹⁵ The

Cabinet Office's definition of 'fair, honest, impartial', states this must be, "...in a manner free from partisan promotion of Government policy and political argument."¹⁶ This implies that non-partisan promotion of government policy may be appropriate.

In his analysis of the 1993 health reforms publicity, Atkinson contends that the Cabinet Office standards are 'less exacting' than those of the Audit Office. He finds that the Auditor-General at the time, Jeff Chapman, appeared to accept a lesser standard than that set by his predecessor, Brian Tyler. Atkinson claims that removal of the requirement for fully justifiable claims and balanced canvassing of pros and cons, is a triumph for 'thin democracy'. His justification for this stance is that Cabinet Office guidelines, "...allow communicators to treat voters as targets for persuasive messages—like consumers in a commercial market—rather than as fully-fledged citizens with a right to be educated in civic affairs."¹⁷ However, Atkinson's analysis is *emotive* at this point, because 'voters' can technically never be a target of any publicly-funded advertising campaign, except through the Chief Electoral Office, Electoral Commission, or a properly constituted independent panel. No other public sector agency could legitimately target 'voters' under the Cabinet Office guidelines which state that advertising, "...should only be undertaken where there is an identified and justifiable information need by the intended recipients."¹⁸

Atkinson applies two theoretical models of the communication process to government communications in his health reforms analysis, as well as two models of democracy, 'thin' and 'strong' (see Chapter Two).¹⁹

Associated with 'thin' democracy, where the public participate in the political process largely through elections, is the 'information-as-thing' model. This model relies on elites controlling information which is transmitted to the public who are passive 'receivers'. Essentially, the public are not involved in determining which messages are to be transmitted.

Participatory ('strong') democracy is linked to the 'information-as-construction' model, whereby the audience can refashion the messages from elites. This requires messages to be targeted carefully to individual

audiences who have been consulted in some way in the development of the messages, because the public is resistant to elite messages which are perceived to manipulate outcomes.

Using the health reforms as a case study, Atkinson concludes that it was 'one-sidedly manipulative'.²⁰ Atkinson's analysis is flawed in that it assumes that the primary goal of all government communications should be consultative, because he believes New Zealand should be a 'strong' democracy. Despite the apparent New Zealand preference for this view (see Chapter Two), governments legitimately conduct a multitude of communications activities which do not require consultation at all, where a simple 'information-as-thing' model must apply. This is especially so in cases of explaining rights and responsibilities under the law, or where non-negotiable policy is to be explained.

Atkinson appears to suggest that reassuring the public and correcting misinformation by providing details of existing policy through public education campaigns is not legitimate. He appears to confuse the role of the health reform campaign, which was largely to communicate the details and explain the context of an *existing* policy, with a desire for democratic consultative *policy-making*. If the aim of the health reform campaign was to consult with the public and to discover options for reform, then Atkinson's criticisms would be valid²¹. However, given that was *not* the aim of the campaign, he only serves to confuse the debate about appropriate communications activities for the public sector. His criteria were inappropriate for evaluating government communication of a policy which was not up for consultation (in itself a political decision).

In his analysis, any unpopular policy is undemocratic and Atkinson objects to any public communication on it which is not consultative in nature. He assumes that in 'strong' democracies, governments consult with the public in order to change unpopular policies, not to correct misinformation or to educate the public on its details. Atkinson states:

...democratic policy-making is not a matter of trying to sell a pre-established but unpopular policy by means of top-down trickery, but a matter of educating citizens up to a level where they are capable of having a genuine say in policy

formulation....Health reform is such an obtrusive issue, and ideological beliefs so fundamental to it, that no amount of suave salesmanship could make it widely acceptable as long as the underlying ideological conflicts are left to fester unacknowledged. Many New Zealanders still do not feel they know where their government is going on health or why it is desirable to go there. More robustly democratic modes of communication may be needed to enlighten them.²²

Supporting the Atkinson view of New Zealand government communications is Maori lobbyist Tony Sinclair. In 1994, the National Government made an announcement detailing its non-negotiable policy on the amount of money it intends to use to settle historical Treaty of Waitangi claims, stating that: "The amount in the Envelope is a political decision which cannot be open for negotiation."²³ The amount of money (\$1 billion) is known as the 'fiscal' or 'settlement envelope'. The costs which may be included within this envelope are open for public consultation.²⁴ The Government engaged in a publicity campaign to ensure that Maori claimants and the general public (as taxpayers who would fund the 'fiscal envelope') were well-informed on the detail of both the non-negotiable aspects of the policy, as well as the other Treaty settlement policies which were open for submission. This approach was rejected by Mr Sinclair's group, because it perceived the government's role to be *solely* a consultative one and therefore the publicity campaign, designed in the 'information-as-thing' model, was inappropriate:

And we've decided that the only way to get information out of these people and to draw them out is to use any forum we can in order to show that the power brokers are not consulting honestly—consulting fairly with the people....We totally oppose their attempts to simply monopolise the medium for themselves—to simply programme and promote their desires and wishes.²⁵

On the same issue, Alliance leader Sandra Lee called for better information to be provided to iwi, "...so they can make an informed response themselves."²⁶ This reveals the expectation that governments should provide information, but for the purpose of participatory policy-making. The Government scheduled a number of hui and other

meetings to discuss the negotiable Treaty settlement policies and to explain the non-negotiable aspects.

The Maori Congress also supported the view that government expenditure of public education on the non-negotiable policy was inappropriate, and called for a matching sum of money to put Maori views.²⁷ This reveals a perception that governments act as pressure groups when communicating the detail of non-negotiable policies and are possibly viewed with suspicion when communicating in a consultative manner. This could be partly due to the high political association with the communications campaign, although this is probably unavoidable since the Crown is the other Treaty partner.

While there are undoubtedly many issues which governments determine as non-negotiable (such as economic policy), their legitimate right and duty to communicate such policy details is sometimes questioned by those who do not object to government communication *per se*, but to the non-negotiable nature of the policy being communicated and therefore to the *style* of communication selected. This can lead to an analysis such as that presented by Atkinson, which becomes critical of a legitimate communications programme and so confuses the issue.

Commentators such as Atkinson operate in a vacuum with regard to assessment of government communications, partly because there are no clear guidelines covering each public sector agency type. Those that exist are too brief and provide ample room for commentators to make charges of propaganda and politicization with regard to legitimate public education activities. The greater transparency of the 1990s has led to some public confusion and ultimately political embarrassment, as governments are accused of 'public relations' to 'sell' their policies. Any public outrage at such expenditure is most likely linked to the controversial nature of many non-negotiable policies. The timing of such public education campaigns is critical and their management should come from and be seen to come from the *bureaucracy*, not the *politicians*.

MARKET FAILURE AND RELIANCE ON THE MEDIA

There have been many calls over the years to regulate the media with commentators identifying a need for standards to be lifted. The urgency felt is indicative of the government's reliance on the media to achieve its communications goals. There is little discussion on the need for government to communicate with the public through channels other than the media. The argument is that the media must improve its standards, because the government's messages are not getting through to the people and, as a consequence, people are not well-informed or able to participate fully in the policy-making process, and so democracy cannot function well. Behind such arguments is a fundamental misunderstanding of the media's role, which is still perceived to be a 'fourth estate' serving the people. In reality it is a number of competing businesses with commercial goals and objectives, regulated by ethics and standards authorities such as the Press Council and Broadcasting Standards Authority. In New Zealand there is no regulation for magazine journalism.

Calls for the media to improve standards commonly reflect a viewpoint of extreme concern. For example JL Robson in 1976 stated:

...we cannot ignore the grave challenge to the news media to lift their standards....Too often the news media have been seen as major obstacles lying in the path of those influences which tend to lift the standard of our civilisation.²⁸

His later memoirs show that throughout his association with the Department of Justice, the media, with one exception, were the primary tool used for public education and were relied upon extensively to pursue policy issues.²⁹ This reliance continued through until 1992 when the Corrections Group (as it was then) of the Department of Justice developed its first comprehensive public relations plan which required it to provide targeted public information through non-media avenues.

The desire for the media to improve standards also commonly involves a demand for increased state control. Fiss, a United Kingdom media commentator, explains the arguments for increased state intervention in the media based on a theory of market failure: the state is needed to

perfect the market or to compensate for its deficiencies.³⁰ He claims that the market constrains the presentation of matters of public interest and importance in two ways: by being especially responsive to the needs of the owners, advertisers, and those targeted by advertising; and making editorial and programming decisions based on profitability or allocative efficiency. Fiss claims:

...there is no necessary, or even probabilistic, relationship between making a profit or allocating resources efficiently and supplying the electorate with the information they need to make free and intelligent choices about government policy, the structure of government, or the nature of society.³¹

Fiss believes the role of the state is not to supplant or perfect the market, but to supplement it: "The state must put on the agenda issues that are systematically ignored and slighted and allow us to hear voices and viewpoints that would otherwise be silenced or muffled."³²

Market failure had been used as justification for New Zealand governments to supplement the media as early as 1935. Gregory, writing on broadcasting, quotes former Prime Minister Michael Joseph Savage explaining broadcasting policy:

In Savage's own words, 'The Government has a duty to the people not to keep them in the dark. What the newspapers neglect to do the broadcasting service will do. We have a far-reaching programme and we want the people to come with us everywhere. The Government is going to be the master of publicity'.³³

The 1988 Royal Commission on Social Policy analysed the role of the market and concluded that in relation to both broadcasting and print media:

...there is a major obstacle which prevents most areas of the media from behaving as a free market. It arises from the fact that the commercial media are primarily financed by advertising revenue. Not only does this prevent classic free market organisation, it also sharply limits, in predictable ways, diversity and choice.³⁴

Market failure means that resources are not allocated efficiently according to consumers' preferences, because quantity of programming, as opposed to quality, is all that can be determined by consumers.

Palmer, in his 1992 writings, investigates the role of the New Zealand media in relation to John Stuart Mill's theories. He claims that under Mill's theory, the media would have some responsibility to inform the public who wished to participate in government. This rejects the notion of a purely market-driven model for the media as an entertainment industry. Palmer suggests that it is not clear what conception the New Zealand media hold of their responsibilities and he makes a logical connection that: "If it is not the media's responsibility to provide the material to keep the public well-informed about their government, then it must be the responsibility of government itself."³⁵ Palmer does not pursue this line of argument in any great depth, but does comment that reliance on the Official Information Act 1982 is not enough:

Work, time and money have to go into gathering the information and seeking creative ways of making it available to those who may find it useful. The information policy of government needs to be pro-active, not one that simply lies in wait for users to apply for it.³⁶

Despite these comments, Palmer opts to continue the New Zealand tradition of exhorting the media to improve its standards, citing higher pay rates and educational standards for journalists, and a system of public broadcasting as prerequisites.³⁷

Palmer cites deregulation of radio and television, which has been taken 'to extremes', as leading to a degradation of reporting standards.³⁸ Atkinson similarly claims deregulation of television has failed to deliver promised improvements, as the removal of state control led to, "...the replacement of one master by another: the state by the market."³⁹ Atkinson provides evidence that since deregulation, *One Network News* (the news programme received by most New Zealanders) has become increasingly 'morselised' (reduced to short components) and 'depoliticised' (without serious discourse on public affairs). Atkinson claims the danger of morselisation is that brevity of 'sound bites' encourages viewers to make emotional rather than logical connections between simple assertions. Depoliticization has led to a change in

interviewing style where the sequence of questions and answers often bear no relationship to each other, are too fast-paced, and incapable of deepening the viewers' understanding of political events.

In Atkinson's analysis, a sizeable portion of television audiences are unaware of what information is being excluded and are therefore unable to make fully informed democratic choices. If this analysis is correct, then it provides strong support for the argument that it is futile for the government to rely on the media to communicate public policy and that governments must take the initiative themselves in order to safeguard the quality of public participation. It is outside the scope of this thesis to discuss theories of media influence on agenda-setting, public opinion and public policy, but an analysis of the recent literature can be made by the reader.⁴⁰

Commenting in 1988 on Australia's Parliamentary Press Gallery, Lloyd claims that the lack of media coverage has been due to market forces, where news judgements label Parliament's activities dull and irrelevant, and where the media do not perceive a duty to report proceedings.⁴¹ Clerk of the House, David McGee's comments on the standard of New Zealand Parliamentary reporting reflect a similar view.⁴² However, the key point made by McGee, which can be applied to government communications objectives in general, is that where there is market failure (i.e. the media fail to find government information newsworthy), rather than castigate the media, or attempt to control them through regulation, they should be supplemented. The payment, by the Clerk, to Radio New Zealand Limited to broadcast the proceedings of Parliament is at public expense, because it is a non-commercial undertaking (i.e. the potential audience is so limited that advertising revenue could not sustain the cost of providing the service). Additionally, a contract for Radio New Zealand Limited to produce a weekly 20 minute programme summarising the business conducted in the House, as well as daily five minute summaries, was entered into in 1994 for much the same reasons. McGee considered that it was in the public interest to broadcast the proceedings in summary form, at public expense, considering the market failed to provide the service. His motives were primarily to improve the attention paid to Parliament and to facilitate a consequent improvement in standards and increased regard for the institution: "My primary

objective is to try and improve the performance, not just the image, but the performance of the Parliamentary process. I believe in many ways that the performance would solve the image problem."⁴³

Government has not generally acknowledged its role in public education other than through effective use of the media. For example, in 1992 the Treasury listed in its Communications Handbook, in descending order of importance, its typical key audiences. These are: Finance and SOE ministers; other ministers (especially the Prime Minister); Parliament; other government departments; economic decision-makers (investors, borrowers, price-setters, etc); academics; interest groups; media, public.⁴⁴ Despite Treasury's mission statement including the role, "...to contribute to public understanding of economic and financial matters in a manner consistent with the current constitutional conventions"⁴⁵, Treasury relies on communicating with the public through use of the news media. For example, discussing 'issues marketing plans' Sallee explained how a significant area of policy development requiring participation from various people would include marketing to the media at the appropriate time. Affected interest groups would also be targeted, however the general public is presumed to be communicated with via the media.⁴⁶

Another example from within a non-core statutorily independent agency is the Reserve Bank of New Zealand, which appears to have inherited this reliance on the media. Described as 'stepping up' a public relations campaign to explain why wage earners should not seek compensation for an expected rise in the consumer price index, the Reserve Bank sent a brochure to politicians, businesses and news media.⁴⁷ Despite it being Governor Dr Don Brash's objective to convince salary and wage earners not to seek compensation, the public relations campaign relied on the media to communicate this message to them. How successfully the media were able to do this is questionable.

One notable example of government agencies moving away from this reliance is in the use of information technology. The Department of Internal Affairs is co-ordinating a project to provide a 24 hour single phone number for public inquiries to all government departments, as well as a public information kiosk network.⁴⁸ A video-conferencing

facility will also allow for greater regional input into central government policy and law-making.

PUBLIC AWARENESS OUTPUTS

As shown in the survey results presented in Chapter Four, communications funding is not commonly budgeted in its own output class. This means that ministers are not directly 'purchasing' public awareness outputs from most core public service agencies. Indirectly, as part of policy advice or implementation outputs, there will be an expectation that public awareness education will be conducted. The problem that can arise by not specifically targeting public awareness outputs for each department, is that an unco-ordinated or piecemeal approach may be taken to external communications. Even where separate communications units may be established as support services for those who receive output class funding, the actual responsibility for devising communications plans and managing budgets can be widely dispersed throughout a core public sector agency. In cases where communications funding is undefined, ministers may be wary of their agency's expenditure in this area, especially if a coherent plan has not been prepared to cover the agency's entire operations. In these cases it is almost impossible to quantify total expenditure with any degree of accuracy, as demonstrated by the survey results.

Because funding is not well co-ordinated within the core public sector agencies, comprehensive public education programmes are not always provided in a proactive sense, that is, they are often engaged in once an issue becomes apparent, in reaction to a media campaign for example. Public education output class funding for all public sector agency types would allow for client groups and the general public to be regularly surveyed to establish areas of concern or misunderstanding, and allow for effective educational programmes to be devised before crises arise. A lot of public sector communications work resembles 'fire fighting', because of an inability to know what issues are keenly felt by various sectors of the public, and what the level of knowledge is. Media monitoring is only

moderately useful, as this provides information generally after a topic has become an issue.

For example, the Department of Justice has undertaken independent media analysis continuously since 1991. This was unable to predict, but could certainly quantify, the public concern and ignorance over parole provisions which erupted in January 1992 and did not die down until August, over the parole of Mr Mark Stephens. The issue produced 199 items from metropolitan newspapers, nationwide radio and television coverage. The news that the inmate was eligible to apply for parole resulted in a media furore, which led to the Parole Board, a statutorily independent body, deciding to delay his hearing until the adverse affects of media attention had dissipated. The Department's Communications Unit recorded around 120 phone calls from the media on the issue. Other Department officials who were contacted by the media did not quantify the number of calls.

The news media coverage initially reflected a poor public understanding of the principles behind the parole policy, the criteria for granting it, and the law changes that had already been made which completely denied parole for violent offenders (but which did not apply to Mr Stephens due to his sentencing occurring prior to the law change). Calls for tightening up on parole, providing a ministerial veto over parole and other draconian criminal justice measures were able to be finally put to rest as the media gradually started to report the facts.

While the matter was seen as one of *policy*, it was considered appropriate by the Department to explain the policy clearly to the public. This may have been perceived as *defence*, but given the sheer number of media calls to the Department, it would have been entirely impractical for the minister to provide all the information. Besides, responsibilities under the Official Information Act 1982 dictated that the information requested by the media should be supplied. *Promotion* of the policy at that point would have been futile, but was able to be addressed once the issue had abated. The incident demonstrated the futility of relying on the media to solely communicate matters of public policy. The Department of Justice subsequently upgraded its communications plans and developed targeted

publications to the news media and pressure groups who were known to have a keen interest in criminal justice issues.

The issue was somewhat complicated by the fact that the story was presented emotively. For example, in what was subsequently proven to be a hoax, a visiting 'top British psychiatrist' Dr Jim McPherson claimed that, "...rapist Mark Stephens is a dangerous latent schizophrenic who should never be freed."⁴⁹ The Department suspected an orchestrated plan of misinformation⁵⁰, with individual members of the Police and the Police Association also taking on the role of pressure groups.⁵¹

The parole issue was not completely resolved and almost exactly a year later, starting in December 1992 and ending in March 1993, the issue of Mr Stephens' parole arose again. The 83 items which ensued, included that he had breached his parole and how the Department of Justice was able to manage it. As this was essentially now an *operational* issue, it was entirely appropriate for the Department to be seen to defend its actions in placing Mr Stephens with his whanau. Nearly 40 phone calls from the media were recorded by the Department's Communications Unit. A public speaking programme conducted by operational staff was subsequently developed by the Department to allow it to communicate directly with interest groups and the wider community about both *policy* and *operational* issues.

Defined public awareness output class funding could have allowed for monitoring of public understanding of critical elements of criminal justice policy. This could have assisted in the early formulation of appropriately targeted communications to interested individuals and pressure groups. Then, when the inevitable happens and a reactive issue attains prominence, public sector agencies like the Department of Justice would find themselves operating with less of an information deficit to correct. The quality of news reporting may also be positively affected. It is arguable that administrative efficiency can be improved with a well informed public. Criminal justice has been notorious for its constant turns in policy—returning to policies and practices which previous experience and research have shown to be ineffective. Many times this has occurred because of an inability to communicate through the public emotion, relying on the media to do the communicating, and not being

able to respond in a coherent proactive manner to public information needs.

The cost of proactive communications outputs should be measured against the benefit of greater understanding and acceptance of government policy as an outcome. As long ago as 1981, the Danks Committee commented that if improved, communications, "...enables Government to work more smoothly and effectively in the long run, a real gain in the efficient use of resources will be achieved."⁵²

PUBLIC CONFIDENCE

Confidence in the bureaucracy has often been tied into the public's level of confidence in government. The traditional model of public sector anonymity has provided little option but to accept, in times of intense dissatisfaction with governments, reduced public confidence in both its operational ability and policy advice functions (for example, Sallee's 'steel chin'⁵³). Holmes and Martin, in 1981, link a breakdown in trust or faith in governments, to their failure to explain and deliver policy.⁵⁴

Palmer wrote an entire book based on the crisis he perceived in both the low performance of the constitutional system and the public attitude to it.⁵⁵ He claimed, in 1992, that politicians, "...now are perilously close to levels of credibility which will cause the system to decay and collapse."⁵⁶

Jane Kelsey of the University of Auckland's Law Faculty, commented on the nature of New Zealand's crisis, commonly discussed during 1992 and 1993:

The term *crisis* was usually shorthand for the dramatic erosion of public confidence in representative electoral democracy and parliamentary politics, and the imposition of an uncompromisingly dogmatic liberal agenda.⁵⁷

According to Colin James and Alan McRobie in their 1993 book:

...over the past two decades public confidence in Parliament and politicians has declined significantly. In 1975 the Heylen Research Centre's *Trust and Confidence* Poll recorded 33%

public confidence in Parliament and politicians; by 1992...[it] had slumped to a meagre 4%. The *National Business Review/Insight Respect List* in March 1992 ranked politicians nineteenth out of 21—above insurance salesmen and car dealers but below tow truck drivers, estate agents and trade union officials.⁵⁸

In 1994 the Public Service Association (PSA) is reported to have agreed with State Services Commissioner, Don Hunn, "...that there is a crisis of public confidence in the civil service."⁵⁹ While the issue under discussion was the spending practices of the former Auditor-General, Jeff Chapman, the PSA's General Secretary linked the crisis in confidence to the state sector reforms of the 1980s which had resulted in senior civil servants abandoning their former standards of ethical behaviour.

Atkinson found that research conducted by Network Communications during the health reforms campaign revealed a total lack of credibility in government and politics generally. This was considered to impact on government communications to such an extent that *any* form of communication *promoting* the reforms would backfire.⁶⁰

Tied up in this lack of public confidence, is a perception that politicization of the public sector has occurred. James and McRobie observed in their analysis of the state sector reforms that:

The politicization of the service was more noticeable in ministers' offices....Ministers' offices, once essentially components of a 'corps' that was part of the wider public service and shared its sense of national interest, came to resemble baronial retinues.⁶¹

Martin explains that the potential conflicts between a minister and chief executive pre-state sector reforms, "...could be fudged behind the doctrine of ministerial responsibility and until 1982 the confidentiality of government business (and the absence of strong investigative media)."⁶² He cites, as examples of the boundaries of politicization being tested, 'vision documents' published by some government departments prior to the 1993 General Election, which purported to look towards the twentyfirst century. In such cases, ministers launched the documents

which were accompanied by extensive publicity campaigns. Other examples were: the Minister of Labour suggesting staff should *protect* and *promote* the Employment Contracts Act 1991; and the Treasury costing out the Opposition party's election promises.⁶³

Provided the publicity campaigns were not *designed to* promote government interests (Audit Office restrictions), then such public education can be legitimate⁶⁴. The association of the minister with such promotion is likely to draw charges of politicization or the perception of it, and perhaps public sector agencies would be wiser to use the chief executive for publicity purposes. To avoid charges of politicization it is imperative that adequate documentation is maintained and made publicly available in order to demonstrate the output-based justification for it. The fact that the minister is still seen to be the appropriate front-person is probably an overhang from the traditional convention of public sector anonymity. Clearly such anonymity is incompatible with today's communications conventions and can open up a public sector agency to charges of politicization as these cases demonstrate. Additionally, Martin's objection to public servants promoting existing policy could be laid to rest if the current conventions were more clearly articulated by those within the public sector. This would legitimate proactive promotion by the core public sector, rather than waiting for ministerial directives which can obviously be misconstrued as politicization.

One of the most disturbing examples of the government's apparent acceptance of the lack of public confidence in the bureaucracy is in its decision not to let the department with statutorily independent functions in managing elections, manage a public education campaign prior to the 1992 and 1993 electoral referenda. While the composition and performance of each independent Electoral Referendum Panel is above reproach, the task of ensuring that the material presented to the public was impartial and unbiased *should* have been able to be carried out by the core public service. In each case the Panels were not statutory bodies and were not subject to the Official Information Act 1982 or the Ombudsmen Act 1975 and there was no requirement to report to Parliament. The fact that the Chief Ombudsman was selected to chair each Panel did ensure that they operated in a transparent fashion and voluntarily reported to Parliament. The precedent has been established that where unbiased and

impartial management is required, an independent body with no statutory obligations, and outside the core public sector should be created. Should such bodies be established for other major projects, there is no guarantee that senior state servants and private sector appointees of the calibre chosen to date, would be appointed. There is also no guarantee that they would seek to define the boundaries of their operations in a manner consistent with the public sector operating environment, such as operating in accordance with the Official Information Act 1982 and reporting to Parliament.

The Minister of Justice's desire to distance the Government from the public education campaign, while an astute political move, did not serve to improve public confidence in the bureaucracy. If a statutory function had been created or entrusted to the Chief Electoral Officer (who routinely manages public education campaigns for each election), what grounds would there have been to expect anything other than an impartial and unbiased campaign? One possibility may be that despite the Chief Electoral Officer's statutory independence, as an employee of the Department of Justice the *appearance* of a close association with the Minister of Justice may have been likely to undermine public confidence in the process. As it was, the Department of Justice still had to provide administrative services to each Panel, formally approve all expenditure (given the requirements of the Public Finance Act 1989), and through the Chief Electoral Office conduct its usual 'how to vote' and 'voter motivation' public education campaign.

Significantly, the 1993 Panel's report recommends that the Electoral Commission (which will eventually absorb the Chief Electoral Office), which was established with statutorily-defined public education responsibilities, should undertake further public education campaigns prior to the next General Election and prior to any citizens' initiated referendum.⁶⁵ Unlike the independent panels, the Electoral Commission is subject to both the Ombudsmen Act 1975 and the Official Information Act 1982, as well as being listed as a Crown entity under the Public Finance Act 1989, so public accountability is assured. It is likely that the Audit and Cabinet Office advertising guidelines will apply. Perhaps the independent panel concept will not establish itself as a convention,

which would refocus attention on the role of the public service in meeting any statutorily-defined functions.

Mulgan suggests that the public do not recognise the pluralism of values which exist in New Zealand society, and this makes it difficult to maintain public confidence. Negative public attitudes to negotiation and compromise are held, "...by those who cling to a homogeneous view of New Zealand society or by those who uncritically assume that the priorities of the financial markets are necessarily accepted by all New Zealanders."⁶⁶ He doubts whether MMP will bring greater public confidence in the political system.

IMPACT OF MMP

The dawn of a new electoral system will bring further changes to the public sector operating environment. Just as the new communications conventions outlined in Chapter Four are taking time to 'bed down', further changes are likely and will take some time to establish themselves in their rightful place.

Martin suggests that under MMP, *"...the location of power and responsibility within the executive government will become even more diffuse and the role of the public service will again require examination."*⁶⁷ He states that hung Parliaments will affect ministerial behaviour and, in turn, behaviour of officials. Because collective ministerial responsibility may be expected to be fragile in coalition governments, officials may find it difficult to reconcile their duty to their minister with their duty to the government. Martin suggests this brings with it risks of politicization.⁶⁸

Boston considers that the question of public sector accountability will be affected by MMP as, *"...the idea of departmental chief executives directly serving more than one cabinet minister fits uncomfortably with the principles of accountability underpinning the State Sector Act."*⁶⁹ If the new communications conventions are allowed to operate to their fullest potential, with appropriate checks and balances, the public accountability of officials will be assured as they shake off the cloak of anonymity and are seen to be responsible for those outputs they have contracted to

provide. If public awareness were one of those outputs, then the public can be legitimately educated about existing and proposed public policy in a non-politicized fashion. Ministers, rather than competing as front-persons for each public sector agency, will have to concentrate on answerability in Parliament.

Mulgan's analysis of the effects of MMP involve a consideration of public participation, accountability, and public confidence.⁷⁰ Describing political culture prior to 1984, Mulgan notes three general views of the state—*active, fair, and accessible*. He claims the active state operated with a high degree of confidence and trust, something that the reforms of the later 1980s removed. He cites the high level of support for MMP in the 1992 indicative electoral referendum as suggesting, "...that New Zealand is facing a significant lack of confidence in its democratic institutions and a major crisis of political legitimacy."⁷¹

Mulgan comments that under the FPP system, public opinion was garnered from opinion polling, and persuading the public through mass marketing that non-negotiable policies were 'worthy' of approval.⁷² He does not suggest how, or if, this may alter under MMP.

Public participation is likely to be enhanced under MMP, according to Mulgan, although greater public debate is not likely to restore public trust. The process of negotiation and the glare of publicity in a transparent system should offer more opportunity for public opinion and widening of the concept of the public interest. Mulgan is of the view that the FPP system of elections allowed too much power to sectional interests and not to the public interest as a whole.⁷³

Despite his concerns regarding public confidence, Mulgan does see MMP offering some prospect for increasing confidence in the democratic *legitimacy* of Parliament (as opposed to increased confidence in its operations). He suggests that the fairness of MMP in representing all parties above the 5% threshold and the potential for a better gender balance, are factors in this.⁷⁴

Mulgan suggests that under MMP, media scrutiny of politicians may be higher than at present, as the potential for disagreements among

coalition partners will significantly alter the style and substance of parliamentary debate.⁷⁵

Negative attitudes to politics could potentially increase, as a result of publicised conflict between coalition partners⁷⁶, or perversely, because of the greater transparency in decision-making. Mulgan claims that: “Unless there is a general recognition that political manoeuvring and the striking of deals are a legitimate and proper part of politics, the greater transparency...may lead to increased disillusionment with politics.”⁷⁷ Such a ‘general recognition’ is achievable through an appropriate public education campaign, which is something the Electoral Commission will no doubt address.

Under MMP public sector communications will have to be clear in their message content to avoid the charge of politicization, which will no doubt be made from time to time. The difficulties arise where more than one minister is reported to, and where they represent more than one political party as may occur under coalition governments. In such cases, it is vital that the old convention of using the minister as the public relations front-person be dispensed with, and that chief executives become more active in their public accountability.

Endnotes

1 Sallee ‘Case Study—The Treasury’ in NZIPA Appearance and Reality: Communicating the Public Sector, p.11
Mr Sallee was given the opportunity to update or amend this case study prior to the completion of this thesis. His comment was that if he were re-doing it today (1995) it would have a more strategic focus.

2 Ibid., p.12

3 Ibid.

4 Henry ‘Communicating in a core public sector department: a strategic organisational view’ in NZIPA Op. Cit., p.3

5 Ibid.

6 Ibid., p.4

7 Ibid., p.6

8 Cabinet Office Manual 2/12

9 Audit Office Suggested guidelines for a convention on publicly-funded government advertising and publicity, p.2

10 Ibid., p.3

11 Cabinet Office ‘Guidelines for Government Advertising’, CO (89) 17, 20/11/89

12 Voyce ‘A presentation on the Audit Office's Suggested Guidelines for a convention on publicly-funded advertising and publicity’,

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- 13 Audit Office PRINZ Annual Conference, May 1994, p.3
 Op. Cit., p.5
- 14 Cabinet Office Op. Cit., p.1
- 15 Audit Office Op. Cit., p.7
 Cabinet Office Op. Cit., p.1
- 16 Ibid.
- 17 Atkinson (1994-b) 'Health Reform and 'Thin' Democracy' in Political Science,
 p.211
- 18 Cabinet Office Op. Cit., p.2
- 19 Atkinson (1994-b) Op. Cit., pp.193-195
- 20 Ibid., p.212
- 21 In some aspects of the health reforms such as the core services funding options,
 consultation was the avowed object, and related communications programmes could
 be subject to Atkinson's criticisms.
- 22 Atkinson (1994-b) Op. Cit., p.214
- 23 Office of Treaty Settlements (1994-b)
 Crown Proposals for the Settlement of Treaty of Waitangi Claims: Summary, p.24
- 24 Office of Treaty Settlements (1994-a)
 Crown Proposals for the Settlement of Treaty of Waitangi Claims: Detailed
 Proposals, pp.9-12
- 25 Sinclair 2YA Mana News 6.38am, 7/12/94
- 26 Lee 2YA Mana News 6.38am, 8/12/94
- 27 MacLennan 'Maoris seek \$1m to fight treaty deal', Dominion, 3/2/95, p.1
- 28 JL Robson (1976) The News Media and Criminal Justice, p.31
- 29 The exception was a series of lectures and talks in 1960. However, the press were
 still considered to be, "...the most important medium in influencing public
 opinion..." Ibid., p.139
- 30 Fiss 'Why the state?' in Lichtenberg Democracy and the Mass
 Media, p.143
- 31 Ibid., p.144
- 32 Ibid.
- 33 Gregory (1978) 'Public Broadcasting and Ministerial Responsibility' in Levine
 Politics in New Zealand, pp.427-428
- 34 Royal Commission on Social Policy April Report, pp.462-463
- 35 Palmer (1992) New Zealand's Constitution in Crisis, p.202
- 36 Ibid., pp.226-227
- 37 Ibid., pp.224-227
- 38 Ibid., p.225
- 39 Atkinson (1994-a) 'The state, the media and thin democracy' in Sharp Leap into
 the Dark, p.150
- 40 For example, refer to sources listed in the bibliography under: Allison, Freckelton,
 Friendly and Goldfarb, Galaway, Grabosky, Iyengar and Kinder, Keane, Kelsey
 and Young, Lemert, Lichtenberg, McGregor, Protess, JV Roberts, Rosenbloom,
 Strouse, and Surette.
- 41 Lloyd Parliament and the Press, p.267
- 42 McGee (1992) Parliamentary Reform, p.7
- 43 Interviewed in Wellington, 13/12/94
- 44 Sallee Op. Cit., p.8
- 45 Ibid.
- 46 Ibid., p.10
- 47 'Reserve Bank tries to avoid wage compensation', Dominion, 15/12/94
- 48 'Govt eyeing \$38m IT payoff', Dominion Infotech Weekly, 19/12/94, p.1
- 49 Ambler and Taylor 'Rapist "should never be freed"', Dominion, 29/1/92
-

- 50 Mannion 'Phone hoax confused debate over parole of Parnell Panther' in
Dominion, 6/4/92
- 51 The Police have taken on this role on many occasions and this is recognised in the
 Department of Justice's media analysis which recorded, in the 1993-94 year, Police
 responsible for initiating 10.7% of all Department of Justice media coverage,
 ahead of the Prison Officers' unions, the public, and other pressure groups. Rt Hon
 Geoffrey Palmer also commented that the Police were a big factor in criminal
 justice policy due to their close relationship with the media: "Remember that the
 Police are a big force in criminal justice policy in New Zealand and the Police
 have an enormous communications network and a big media presence and they can
 undermine you most terribly." Interview with author, Wellington, 4/8/94. See
 also McGregor's comment on page 82, footnote 83.
- 52 Committee on Official Information (a)
Towards Open Government: 1, General Report, p.37
- 53 Sallee Op. Cit., p.12
- 54 Holmes & Martin 'Setting the Scene' in Berthold The Accountability of the
 Executive, p.22
- 55 Palmer (1992) Op. Cit., p.1
- 56 Ibid., p.14
- 57 Kelsey 'Aotearoa/New Zealand: The anatomy of a state in crisis' in
 Sharp Op. Cit., p.178
- 58 James & McRobie Turning Point, p.124
- 59 2YA News, 8.00am, 7/12/94
- 60 Atkinson (1994-b) Op. Cit., p.201
- 61 James & McRobie Op. Cit., pp.27-28
- 62 Martin (1994-b) 'Ethics in Public Service: the New Zealand Experience' in
 Preston Ethics for the Public Sector: Education and Training,
 p.106
- 63 Ibid., pp.107-108
- 64 Compare 'designed to' from the Audit Office's guidelines, with Devereau's
 comment on page 32, that political credit cannot be the 'primary purpose' or
 'primary incidental' of public communications.
Report of the Electoral Referendum Panel December 1993, pp.19-20
- 65 Mulgan (1993) 'Political Culture' in Hawke Changing Politics, p.63
- 67 Martin (1994-a) 'The role of the state in administration' in Sharp Op. Cit., p.45
- 68 Ibid., p.63
- 69 Boston (1991) 'Reorganising the Machinery of Government' in Boston *et al*
Reshaping the State, p.241
- 70 Mulgan (1993) Op. Cit., pp.43-67
- 71 Ibid., p.54
- 72 Ibid., pp.52-53
- 73 Ibid., p.52
- 74 Ibid., p.64
- 75 Ibid., p.58
- 76 Ibid., p.64
- 77 Ibid., p.62

CHAPTER SIX

—Conclusion

New Zealanders consider themselves a democratic nation with an emphasis on the normative notion of strong democracy. This is more of an ideal, rather than a reflection of the vast amount of public policy which is made in a more representative (or 'thin') democratic manner. It would be fair to say that both forms of democracy co-exist. This leads to an expectation that governments will communicate with the public either directly, through the media or via interest groups in order to encourage increased public participation, or simply to enhance public understanding of particular policies. The form of this communication is determined by the government's policy stance, viz. whether it is a non-negotiable policy to be communicated (such as the amount of the 'fiscal envelope'), or a policy open to discussion and community input (core health services debate).

Changes in the state sector during the 1980s have impacted markedly on the conventions governing public sector communications. The role of different agency types, the minister, and the media have all changed, along with the public's expectations of greater transparency. Not unsurprisingly, confusion has developed as to what is an appropriate expenditure of taxpayers' funds and the literature has taken some time to catch-up with the post-state sector reform environment.

This thesis concludes that the conventions governing public service and state sector communications need to be continuously assessed, redefined and communicated to those responsible for managing and advising on government communications. Defining the conventions is no easy task and should be open for debate with wide input from state sector communications practitioners. The conventions presented in Chapter Four are a starting point which purport to reflect the current state sector environment. Changes imminent under MMP are likely to alter the role of the official and public expectations will also require changes to the conventions to develop. It is also imperative that commentators on

communications matters, so often influential in public debate, are provided with clear and unambiguous messages about the role of government communications.

Ultimately there needs to be public acceptance that governments have the legitimate right to use state sector agencies to *explain* and *promote* existing or proposed government *policy*. Timing of such promotion is critical if it is not to be seen as *defence* of policy (not undertaken at a time of intense public criticism for example). The fact that a policy may be non-negotiable does not reduce the legitimacy of the communications in any way. When state sector agencies do engage in proactive communications, the reliance on the media to communicate public policy is reduced and hence criticism of its ability to do so can be avoided. Adequate output class funding of each agency needs to be provided so that public awareness is transparently recognised as a goal of government. The main problem will be in obtaining public acceptance that such public awareness is not politicized, nor the conventions abused. Public servants need to be seen to be managing communications, as opposed to the high profile that ministers continue to take.

While there may be no great risk to the business of government in continuing with muddled conventions and mixed messages, the public surely deserve better. If the New Zealand ideal of enhanced public participation is to be achieved, and a reliance on the media to communicate matters of substance abandoned, government communications *need* to be better funded and better managed and the public need some assurances that appropriate, unambiguous guidelines are being followed. Without such assurances, suspicion of 'glossy' publications, and high profile television campaigns for example, may continue to work against administrative efficiency in the achievement of outputs.

PROPOSAL

In order to facilitate a clear expression of the conventions, a comprehensive guide should be prepared and regularly updated. This

guide should contain specific detail with regard to agency types, ministerial responsibilities and appropriate communications activities, clearly outlining the conventions. As well, it should contain guidelines relevant to each agency type's responsibilities under the Public Finance Act 1989, and how to account for various communications activities. Any relevant Cabinet decisions for the time being in force should be explained. Most importantly, the legal parameters within which state sector communications take place should form part of the guide. The guide should be especially valuable to those communications managers with limited previous state sector experience, and for chief executives who may wish for some reassurance as to their appropriate communications role.

Prior to the development of such a guide, the views of communications managers should be sought to determine whether it would be of use, or whether it should contain other information besides or in place of that outlined above. This could be achieved via a survey, focus group discussion, 'Network' meeting¹, formal seminar (such as the 1992 NZIPA conference), or co-opted working group with representatives of each agency type.

The first step would be determining who would be responsible for co-ordinating this. A leadership role within the state sector is held by the SSC, who are obviously a key player in the articulation of any guidelines or conventions. The Audit Office has a similar interest with regard to accountability for public funds, and the Department of Prime Minister and Cabinet's Communications Unit has an interest in co-ordinating public sector communications. In terms of assisting in the development of public awareness output class funding for all public sector agencies, the Treasury would have a role. These key players would be the obvious group to set about articulating the communications conventions, and assisting the public sector to achieve greater cost and administrative efficiency in effecting public policy. The challenge is theirs.

The proposal outlined above presents an opportunity for those central agencies to show leadership in the public sector. There has been some concern for some time amongst senior public servants of the 'departmentalism' which has occurred post-state sector reforms and a fear

of 'politicization'. Reassessing communications conventions so they reflect reality will provide a golden opportunity to find the commonalities and to understand the differences, that exist. Transparency is vital to government communications, if they are to be perceived as appropriate expenditure of taxpayers' funds, unbiased and apolitical.

Endnotes

¹ The Network of Public Sector Communications Practitioners

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APPENDIX ONE

—Surveyed organisations

Core agencies – 49

Ministry of Agriculture and Fisheries
Audit Office
Ministry of Civil Defence
Ministry of Commerce
Department of Conservation
Ministry of Consumer Affairs
Crown Law Office
Ministry of Cultural Affairs
New Zealand Customs
Ministry of Defence
Ministry of Education
Education Review Office
Ministry for the Environment
Ministry of Foreign Affairs and Trade
Ministry of Forestry
Government Superannuation Fund Department
Ministry of Health
Ministry of Housing
Inland Revenue Department
Department of Internal Affairs
Department of Justice
Department of Labour
 New Zealand Employment Service
 New Zealand Immigration Service
 Industrial Relations Service
 Community Employment Group
 Occupational Safety and Health Service
Ministry of Maori Development (Te Puni Kokiri)
National Library of New Zealand
Ministry of Pacific Island Affairs

New Zealand Police
Department of the Prime Minister and Cabinet
Public Trust Office
Ministry of Research, Science and Technology
Serious Fraud Office
Department of Social Welfare
 New Zealand Income Support Service
 New Zealand Children and Young Persons Service
 New Zealand Community Funding Agency
 Social Policy Agency
State Services Commission
Statistics New Zealand
Department of Survey and Land Information
Ministry of Tourism
Ministry of Transport
Treasury
Valuation New Zealand
Ministry of Women's Affairs
Ministry of Youth Affairs

Crown entities – 13

Accident Rehabilitation and Compensation Insurance Corporation
The Careers Service
Civil Aviation Authority of New Zealand
Early Childhood Development Unit
Education and Training Support Agency
Public Health Commission
Housing Corporation of New Zealand
Housing New Zealand Limited
Land Transport Safety Authority
Learning Media Limited
New Zealand Qualifications Authority
Foundation for Research, Science and Technology
Special Education Service Board

State-Owned Enterprises – 15

Airways Corporation of New Zealand Limited
Coal Corporation of New Zealand Limited
Electricity Corporation of New Zealand Limited
Trans Power New Zealand Limited
Forestry Corporation of New Zealand Ltd
Government Computing Service Limited (since sold)
Government Property Services Limited
Land Corporation Limited
Meteorological Service of New Zealand Limited
New Zealand Post Limited
Radio New Zealand Limited
Television New Zealand Limited
Timberlands West Coast Limited
Vehicle Testing New Zealand Limited
Works and Development Services Corporation (NZ) Limited

Crown Research Institutes – 9

New Zealand Institute for Crop and Food Research Ltd
Institute of Environmental Science and Research Ltd
New Zealand Forest Research Institute Ltd
Institute of Geological and Nuclear Sciences Ltd
Horticulture and Food Research Institute of New Zealand Ltd
Industrial Research Ltd
Landcare Research New Zealand Ltd
New Zealand Pastoral Agriculture Research Institute Ltd
National Institute of Water and Atmospheric Research Ltd

APPENDIX TWO

—Survey methodology

The criteria for selection was those organisations which: currently form the core public service (i.e. listed in the first schedule to the State Sector Act 1988, as well as the Police Department's civilian staff under section 44 2 (d)); and those organisations whose key functions were part of the core public service pre-1987 and are still in public ownership and subject to the Official Information Act 1982 (State-Owned Enterprises, Crown Research Institutes, Crown entities).

This does not include other organisations which may be covered by the Official Information Act 1982, but which did not form part of the core public service (i.e. producer boards, statutory authorities, regional health authorities, educational institutions, publicly-owned companies).

Where a public service department has been split into separate business operations with distinct identities, these were separately surveyed, as well as where a smaller ministry was located within a larger one.

Each survey was marked, both on the envelope and the letter inside, Attention: Communications/ Marketing Manager. The letters were enclosed with the survey form and a self-addressed, pre-paid envelope was also included. The survey forms were colour-coded so that they could be easily categorised upon receipt.

—Original letter

244 Buckley Road
Southgate
WELLINGTON 2

2 November 1994

Dear Communications/ Marketing Manager

Like you, I am a communications professional working within the public sector. The Department of Justice, where I work as Senior Communications Advisor, has sponsored me to complete a Master of Public Policy degree.

For my thesis, I'm interested in how the public sector is currently approaching its various communications responsibilities. I would greatly appreciate your help in developing a picture of how the various types of public sector agencies manage this task. All that's required is your help in completing the attached survey. Don't worry if you can't answer all the questions, just indicate where you are unable to do this.

If you're interested in receiving a summary of the data (once it's aggregated) then just tick the box on the survey.

Thanks for your help —I know how busy you must be, and I really appreciate the time you have given.

The survey information is requested in terms of the Official Information Act 1982. If you would like more information, please contact me on (04) 4721 000 x 8526, or (04) 3838 499.

Yours sincerely

JUDITH URLICH

—*Reminder letter*

244 Buckley Road
Southgate
WELLINGTON 2

23 December 1994

Dear Communications/ Marketing Manager

On 2 November I sent you a survey which I have not yet received back. As I had requested the information under the Official Information Act 1982, I would appreciate your reasons for withholding the information. You may be interested to know that the majority of organisations surveyed were able to return theirs within 21 working days either fully or partially completed.

For your information I have included another copy of the letter and survey, which I trust you may still find time to complete.

Yours sincerely

JUDITH URLICH

Communications/ Marketing Managers' Survey

Public sector agency
Address
Comms/ Marketing Manager
Phone ()

☐ Yes, I'd like a copy of the aggregate data sent to me.

Return by 24 November 1994 to:
Judith Ulrich
244 Buckley Road
Southgate
WELLINGTON 2

1. Which communications activities does your agency engage in?

☐ promote political party policy	☐ marketing of services
☐ defend political party policy	☐ marketing of product
☐ explain political party policy	☐ corporate positioning/ awareness advertising
☐ attack political party policy	☐ promotion of agency in media
☐ promote government policy	☐ defence of agency in media
☐ defend government policy	☐ explain agency's actions in media
☐ explain government policy	☐ front-up to the media if required
☐ attack government policy	☐ client communication
☐ promote policy proposals	☐ consultation of interest groups for service proposals
☐ defend policy proposals	☐ consultation of interest groups for policy proposals
☐ explain policy proposals	☐ consultation of interest groups for legislative requirements
☐ attack policy proposals	☐ other (state).....
☐ lobby for specific policy proposals	
☐ provide public education services	

2. How would you describe your agency?

☐ mixed operational/ policy	☐ primarily policy	☐ primarily operational
☐ State-Owned Enterprise	☐ Crown entity	☐ other (state)

3. In the 1993/94 financial year, how much money was spent by your agency (please include all overheads and staff costs) on:

General communications/ marketing _____ (a)
Media relations _____ (b)
TOTAL communications spending (a+b) _____ (c)
TOTAL agency budget (Vote) _____ (d)
% spent on communications (c+d x100) _____

4. Is communications/ marketing spending:

- ☐ separately budgeted
☐ in its own output class
☐ mixed in with other agency budgets

5. Do the following apply to your agency's communications?

☐ Ombudsmen Act 1975	☐ judicial review
☐ Official Information Act 1982	☐ sub-judice provisions
☐ Audit Office/ Cabinet Office guidelines for government advertising (1989)	☐ Treaty of Waitangi Act 1975
	☐ Privacy Act 1993

APPENDIX THREE

—Survey results

Question 1.

► CORE-POLICY

<i>Activity</i>	<i>%</i>
Consultation of interest groups for policy proposals.....	85.71
Explain government policy	78.57
Explain policy proposals.....	64.29
Front-up to the media if required	64.29
Explain agency’s actions in the media.....	64.29
Client communication	64.29
Consultation of interest groups for legislative requirements.....	50
Promote government policy	42.86
Promote policy proposals.....	35.71
Provide public education services.....	35.71
Consultation of interest groups for service proposals.....	28.57
Promotion of agency in media.....	21.43
Defence of agency in media	14.29
Defend government policy.....	14.29
Promote political party policy	7.14
Explain political party policy	7.14
Defend policy proposals.....	7.14
Attack policy proposals.....	7.14
Lobby for specific policy proposals.....	7.14
Marketing of services.....	7.14
Marketing of product	7.14
Assist other agencies in communications delivery	7.14

There were 14 agencies represented in the above data.

D CORE-OPERATIONAL

<i>Activity</i>	<i>%</i>
Client communication	92.31
Marketing of services	84.62
Promotion of agency in the media	84.62
Front-up to the media if required	69.23
Consultation of interest groups for service proposals	69.23
Consultation of interest groups for policy proposals	69.23
Explain agency's actions in media	61.54
Provide public education services	53.85
Corporate positioning/ awareness advertising	53.85
Consultation of interest groups for legislative requirements	53.85
Explain government policy	53.85
Marketing of product	46.15
Defence of agency in media	46.15
Promote government policy	38.46
Explain policy proposals	23.08
Defend government policy	15.38
Promote policy proposals	15.38
Defend policy proposals	15.38
Issue factual information	7.69

There were 13 agencies represented in the above data.

► CORE-MIXED OBJECTIVE

<i>Activity</i>	<i>%</i>
Explain policy proposals.....	85
Explain government policy	80
Explain agency's actions in media.....	80
Front-up to the media if required	80
Consultation of interest groups for policy proposals.....	80
Provide public education services.....	75
Promotion of agency in the media.....	70
Client communication	70
Consultation of interest groups for legislative requirements.....	70
Consultation of interest groups for service proposals.....	65
Promote government policy	60
Promote policy proposals.....	60
Marketing of services.....	55
Defence of agency in media	55
Defend policy proposals.....	40
Corporate positioning/ awareness advertising.....	35
Defend government policy.....	35
Marketing of product	20
Lobby for specific policy proposals.....	10
Relationship management.....	5
Publications.....	5
Library.....	5
Overseas visitors.....	5
Advise on policy issues	5

There were 20 agencies represented in the above data.

D CROWN ENTITIES

<i>Activity</i>	<i>%</i>
Client communication	90
Consultation of interest groups for service proposals.....	80
Consultation of interest groups for policy proposals.....	70
Front-up to the media if required	70
Marketing of services.....	60
Marketing of product.....	60
Provide public education services.....	60
Explain government policy	60
Explain agency's actions in media.....	60
Promotion of agency in the media.....	50
Corporate positioning/ awareness advertising.....	50
Explain policy proposals.....	50
Consultation of interest groups for legislative requirements.....	40
Promote government policy	30
Promote policy proposals.....	30
Lobby for specific policy proposals.....	20
Defend government policy.....	10
Defend policy proposals.....	10
Defence of agency in media	10

There were ten agencies represented in the above data.

D STATE-OWNED ENTERPRISES

<i>Activity</i>	<i>%</i>
Client communication	92.86
Corporate positioning/ awareness advertising.....	85.71
Front-up to the media if required	78.57
Marketing of services.....	71.43
Promotion of agency in the media.....	71.43
Explain agency's actions in media.....	71.43
Marketing of product	64.29
Defence of agency in media	57.14
Consultation of interest groups for service proposals.....	50
Consultation of interest groups for policy proposals.....	50
Lobby for specific policy proposals.....	35.71
Provide public education services.....	35.71
Consultation of interest groups for legislative requirements.....	21.42
Promote government policy	7.14
Explain government policy	7.14
Standards legislation and lobbying	7.14
Implement government policy	7.14
Sponsorship	7.14
Staff communications.....	7.14

There were 14 agencies represented in the above data.

D CROWN RESEARCH INSTITUTES

<i>Activity</i>	<i>%</i>
Marketing of services.....	100
Marketing of product	100
Corporate positioning/ awareness advertising.....	100
Promotion of agency in the media.....	100
Client communication	100
Front-up to the media if required	83.33
Provide public education services.....	66.67
Consultation of interest groups for service proposals.....	66.67
Explain agency's actions in media.....	50
Consultation of interest groups for legislative requirements.....	50
Consultation of interest groups for policy proposals.....	33.33
Defence of agency in media	33.33
Lobby for specific policy proposals.....	16.67
Environmental research	16.67
Publications for purchasers.....	16.67

There were six agencies represented in the above data.

Question 2.

■ CORE-POLICY

Auditor-General
Women's Affairs
Foreign Affairs & Trade
Tourism Policy Group
Transport
Cultural Affairs
Research Science & Technology
(Ministry)

Prime Minister & Cabinet
Social Policy Agency
Environment
Youth Affairs
Health
State Services Commission
Maori Development

■ CORE-OPERATIONAL

Community Employment Group
Statistics NZ
NZ Income Support Service
Education Review Office
Crown Law Office
NZ Police
Survey & Land Information

NZ Community Funding Agency
Public Trust Office
Valuation NZ
Serious Fraud Office
NZ Children & Young Persons
Service
National Library

■ CORE-MIXED OBJECTIVE

Consumer Affairs
Defence
Internal Affairs
Govt Superannuation Fund
Social Welfare
NZ Employment Service
Inland Revenue
Industrial Relations Service
Housing (Ministry)
Conservation

Pacific Island Affairs
Civil Defence
Occupational Safety & Health
Forestry
Justice
Agriculture & Fisheries
Treasury
Labour
Education (Ministry)
Commerce

Question 3.

■ CORE-POLICY

TOTAL spent on communications	$2,734,000 \div 8 = \$341,750$
% spent on communications	$21.81 \div 8 = 2.73 \%$

■ CORE-OPERATIONAL

TOTAL spent on communications	$6,241,000 \div 9 = \$693,444$
% spent on communications	$20.34 \div 9 = 2.26 \%$

■ CORE-MIXED OBJECTIVE

TOTAL spent on communications	$10,912,000 \div 15 = \$727,466$
% spent on communications	$37.87 \div 13 = 2.91 \%$

■ CROWN ENTITIES

TOTAL spent on communications	$10,271,100 \div 7 = \$1,468,200$
% spent on communications	$19.58 \div 6 = 3.26 \%$

■ STATE-OWNED ENTERPRISES

TOTAL spent on communications	$9,555,900 \div 8 = \$1,194,500$
% spent on communications	$35.48 \div 5 = 7.09 \%$

■ CROWN RESEARCH INSTITUTES

TOTAL spent on communications	$2,265,000 \div 4 = \$566,250$
% spent on communications	

D SUMMARY

Financial information was supplied by the following:

	Number	%
Core-policy	8/14	57.14
Core-operational	9/13	66.67
Core-mixed objective	16/20	80
Crown entities	7/10	70
State-owned enterprises	9/14	64.29
Crown research institutes	4/6	80

Question 4.

Communications budgets:

	Separate	Output class	Mixed	Total
Core-policy	5	1	7	13
Core-operational	9	2	3	14
Core-mixed objective	8	2	8	18
Crown entities	6	1	3	10
State-owned enterprises	10	1	2	13
Crown research institutes	4	0	2	6
TOTAL	42	7	25	74

Question 5.

Knowledge of legal parameters:

Relevance indicated	P	O	M	SOE	CE	CRI
Ombudsmen Act 1975	64.29	69.23	80	57.14	60	33.33
Official Information Act 1982	100	100	100	100	90	83.33
Audit/ Cabinet Office guidelines	71.43	76.92	90	28.57	50	50
judicial review	42.86	38.46	50	35.71	30	33.33
sub-judice provisions	28.57	53.85	45	42.86	30	16.67
Treaty of Waitangi Act 1975	64.29	69.23	80	64.29	50	83.33
Privacy Act 1993	85.71	100	100	92.86	70	83.33

APPENDIX FOUR

—Survey analysis

Calculation one

Is there any statistical difference between three out of four 'policy advocacy' agencies, and two out of ten other 'primarily policy' agencies?

Test for two sample proportions:

$$Z = \frac{\hat{p}_1 - \hat{p}_2}{\sqrt{\hat{p}'q'_1 + \hat{p}'q'_2}}$$

$$\hat{p}' = \frac{x_1 + x_2}{n_1 + n_2}$$

$$\hat{p}' = \frac{3 + 2}{4 + 10} = \frac{5}{14} = 0.3571$$

$$\hat{p}_1 = 0.75$$

$$\hat{p}_2 = 0.2$$

$$n_1 = 4$$

$$n_2 = 10$$

H₀ (null hypothesis): That at the 95% confidence level, there is no significant difference between the results recorded by three out of four ‘policy advocacy’ agencies, and two out of ten other ‘primarily policy’ agencies.

If the Z score is ≤ 1.96, then the null hypothesis cannot be rejected.

$$\begin{aligned} & \frac{0.75 - 0.2}{\sqrt{\frac{(0.3571)(0.6429)}{4} + \frac{(0.3571)(0.6429)}{10}}} \\ &= \frac{0.55}{\sqrt{\frac{0.2296}{4} + \frac{0.2296}{10}}} = \frac{0.55}{\sqrt{0.0574 + 0.023}} \\ &= \frac{0.55}{\sqrt{0.0804}} = \frac{0.55}{0.2835} = 1.94 \end{aligned}$$

As the Z score of 1.94 is ≤ 1.96, the null hypothesis cannot be rejected.

Calculation two

Chi Square

	Core	CEs	SOEs	CRIs	TOTAL
Returned	47 (44)	10 (12)	14 (13)	6 (8)	77
Not returned	2 (5)	3 (1)	1 (2)	3 (1)	9
TOTAL	49	13	15	9	86

Key:

- Core = primarily policy, primarily operational and mixed objective public sector agencies
- CEs = Crown entities
- SOEs = state-owned enterprises
- CRIs = Crown research institutes

Expected values are in parentheses, showing what values would be expected if null hypothesis were upheld.

*H*φ (null hypothesis): That at the 95% confidence level, there is no significant difference between the number of surveys returned by each state sector agency type.

To test the actual variance: $\chi^2_{\text{observed}} = \sum \frac{(O-E)^2}{E}$

$\frac{(47-44)^2}{44} + \frac{(10-12)^2}{12} + \frac{(14-13)^2}{13} + \frac{(6-8)^2}{8} +$
 $\frac{(2-5)^2}{5} + \frac{(3-1)^2}{1} + \frac{(1-2)^2}{2} + \frac{(3-1)^2}{1}$

= 0.2045 + 0.3333 + 0.0769 + 0.5 + 1.8 + 4 + 0.5 + 4 = 11.4147

The critical value for 95% distribution of variations expected if there was no other effect going on, other than sampling, is found using degrees of freedom:

$$(\text{data rows} - 1) \times (\text{data columns} - 1) = (2 - 1) \times (4 - 1) = 1 \times 3 = 3$$

$$\text{d.f.} = 3 \quad \chi^2_{0.05} = 7.81$$

It would be unwise to draw any interpretation from these results as the variation (11.4147) is not greatly out of range from 7.81. The existence of several cells with data less than 5 in them can serve to distort the results.

Calculation three

Is the survey return rate for each agency type different from the population proportion (89.53%)?

H₀ (null hypothesis): That at the 95% confidence level, there is no significant difference between the population proportion and each sample proportion.

If the Z score is ≤ 1.96, then the null hypothesis cannot be rejected.

$$Z = \frac{\hat{p} - p}{\sigma \hat{p}} = \frac{\hat{p} - p}{\sqrt{\frac{pq}{n}}}$$

Core agencies

$$\frac{0.9592 - 0.8953}{\sqrt{\frac{(0.8953)(0.1047)}{86}}} = \frac{0.0639}{\sqrt{\frac{0.0937}{86}}} = \frac{0.0639}{\sqrt{0.0011}} = \frac{0.0639}{0.033} = 1.9364$$

As the Z score of 1.9364 is ≤ 1.96, the null hypothesis cannot be rejected.

Crown entities

$$\frac{0.6923 - 0.8953}{0.033} = \frac{0.203}{0.033} = 6.1515$$

As the Z score of 6.1515 is ≥ 1.96, the null hypothesis can be rejected. The difference is statistically significant.

State-owned enterprises

$$\frac{0.9333 - 0.8953}{0.033} = \frac{0.038}{0.033} = 1.1515$$

As the Z score of 1.1515 is ≤ 1.96 , the null hypothesis cannot be rejected.

Crown research institutes

$$\frac{0.6667 - 0.8953}{0.033} = \frac{0.2286}{0.033} = 6.9273$$

As the Z score of 6.9273 is ≥ 1.96 , the null hypothesis can be rejected. The difference is statistically significant.