



# Te Kawa Mataaho

Public Service Commission

18 December 2024

9(2)(a) privacy

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## Official Information Request

Our Ref: PSCR 2024-0098

I refer to your official information request received on 21 November 2024 for:

- All advice that the Public Service Commissioner has sought or received, regarding public service neutrality and Minister Costello saying to One News “yet again, officials undermining the Government’s harm-reduction approach to reducing smoking rates?”
- All correspondence to or from the Public Service Commissioner, regarding public service neutrality and Minister Costello saying to One News “yet again, officials undermining the Government’s harm-reduction approach to reducing smoking rates?”
- All advice received or sought by the Public Service Commissioner regarding public service neutrality, since 4 November 2024.

## Information being released

Please find enclosed the following documents within scope of part two of your request.

Item	Date	Document Description	Decision
1	5 November 2024	Letter from PSA to the Commissioner	Released in full
2	18 November 2024	Letter from the Commissioner to the PSA	Released in full

## Information does not exist

I am refusing parts one and three of your request under section 18(e) of the Official Information Act 1982 on the grounds the information requested does not exist.

If you wish to discuss this decision with us, please feel free to contact [Enquiries@publicservice.govt.nz](mailto:Enquiries@publicservice.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) and enclosed documents on the Te Kawa Mataaho Public Service Commission's website.

Yours sincerely



Nicky Dirks

**Manager – Ministerial and Executive Services  
Te Kawa Mataaho Public Service Commission**



5 November 2024

Brian Roche  
Public Service Commissioner  
Te Kawa Mataaho | Public Service Commission

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Tēnā koe Commissioner

### **Recent ministerial attacks on public service integrity**

Recent public criticism of a public servant by the Associate Health Minister Casey Costello is of serious concern to the PSA. Public servants are not in a position to publicly defend themselves and attacks such as this have a chilling effect across the public service if not challenged and followed up.

The ability of public servants to provide free and frank advice is an important constitutional principle that protects from ministers attempting to politicise public servants and undermine public faith in public services.

We understand that the Associate Minister has accused Ministry of Health officials of trying to undermine the Government's smoking reforms by questioning the external advice she received about the health effects of heated tobacco products. This narrative has been reinforced by comments made by the Prime Minister, which appear to conflate this case with a separate issue from last month in which the Ministry did not declare to Associate Minister Costello a familial relationship between a different Ministry official and an opposition politician. The comments by the Prime Minister have deepened our concern about the willingness of ministers to receive free and frank advice from the public service.

It is inappropriate for a minister to attack a public servant for doing their job. We also consider it misleading for Associate Minister Costello to present an expert health official commenting internally to colleagues about the quality of health evidence as an issue of political neutrality. Analysing evidence and providing expert advice on it is precisely what public servants are required to do in the course of their work, and it contributes to the responsibility of the public service to provide free and frank advice.

Taxpayers rightly expect officials to provide robust advice and evidence and challenge Ministers. Ministers have a right to reject that advice, but publicly attacking an official undermines a core constitutional principle that officials must be able to give free and frank advice to enable good decision-making.

We ask for your support in upholding the free and frank provisions of the Public Service Act 2020 and engaging with ministers to remind them both of this important constitutional principle, and of their obligations as per section 3.26(f) of the Cabinet manual that:

*Ministers should exercise a professional approach and good judgement in their interactions with officials. Ministers must respect the political neutrality of the public service and not request that officials act in a way that would conflict with the standards of integrity and conduct set by the Public Service Commissioner*

We also reiterate our view that a code of conduct for ministers and MPs, including standards around their public comments on individual public servants, would be useful in setting clear expectations about appropriate behaviour for ministers.

Ngā mihi



Kerry Davies  
National Secretary



Duane Leo  
National Secretary



**Te Kawa Mataaho**  
Public Service Commission

18 November 2024

Kerry Davies and Duane Leo  
PSA National Secretaries  
Public Service Association

By email to: [liz.byron@psa.org.nz](mailto:liz.byron@psa.org.nz)

Tēnā kōrua Kerry and Duane

Thank you for your letter of 5 November 2024, where you have raised concerns regarding recent comments by the Associate Minister of Health.

You may be aware that I made a statement on this matter, and I will summarise that here. The Ministry of Health has apologised to Associate Minister Costello for unprofessional language in an internal email about information that the Minister provided to the agency. This was the right thing to do, and public servants should be mindful to be professional in their communications. It is also important to clarify that the internal email was not free and frank advice and not an official Ministry position.

I am committed to protecting and reinforcing the Public Service's responsibility to provide free and frank advice. Since I started in the role not long ago, I have been pleased to see the Commission and the Leadership Development Centre have published additional resources on the public service principles, including free and frank advice. Agencies have been promoting awareness of the new guidance on the principles with their staff.

I note, and you will be aware, that the Public Service Commissioner has no jurisdiction in relation to the behaviour or to set a code of conduct for Ministers. The Cabinet Manual applies specifically to Ministers and sets out both their expected conduct and the relationship of Ministers and the Public Sector. Concerns that Ministerial behaviour has breached expectations in the Cabinet Manual are matters for the Cabinet Office and/or the Prime Minister.

Thank you for getting in touch with me. I am looking forward to meeting you later today.

Nāku noa, nā

Sir Brian Roche KNZM  
Te Tumu Whakarae mō Te Kawa Mataaho  
Public Service Commissioner | Head of Service