

23 February 2024

9(2)(a)

Official Information Act request

Thank you for your email of Friday 9 February 2024, in which you requested the following information:

- *Any correspondence received by you between 1 December 2023 and today from your agency's responsible minister, the Minister of Finance, Treasury, or any other Minister or Agency regarding the fiscal sustainability programme, including any savings required by your agency.*
- *Any letters of expectation or guidance from Te Kawa Mataaho received by you between 1 December 2023 and today regarding change management or employment relations.*

We are currently planning for the financial year 2024/25, to be considered by the Minister for Social Investment. Ministers and Cabinet will make decisions on final savings as part of Budget 2024, and I can advise that no final decisions have been made.

We respect the budget process and confidentiality needed for budget sensitive information. I am therefore refusing your request for correspondence in accordance with section 9(2)(f)(iv) to maintain the constitutional convention for the time being which protects the confidentiality of advice tendered by Ministers of the Crown and officials.

I can advise that on 19 January 2024, we received guidance from Te Kawa Mataaho titled '*Key principles of managing change – fiscal sustainability programme 2024*'. This guidance was sent to all agencies in the Head of Human Resources Community and was not specific to the Social Wellbeing Agency. A copy of the guidance is attached.

On 8 December 2023 we also received a copy of minutes from the Public Service Heads of HR meeting on 7 December 2023. At this meeting there was an item titled '*Employment Relations Update*'. A copy of the minutes relating to that item are also attached.

If you are not satisfied with this response, you have a right to seek an investigation or review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or by calling 0800 802 602.

As part of our commitment to transparency, we proactively release our responses to information requests where possible. This response, with your personal details removed, will be published on our website shortly.

Nāku iti noa, nā

A handwritten signature in blue ink, appearing to read 'K. Anderson'.

Kirsty Anderson
Manager Communications and Engagement
Social Wellbeing Agency



The following does not constitute legal advice. Legal advice should be sought in individual cases as required.

The Commission notes that whilst there is no ‘one size fits all’ approach to change management, each agency should have a clear vision of the purpose of change and commit to a process that follows legislation and their existing policies, treating people with respect and taking into account agency context and employee engagement structures:

- **Agencies should follow their management of change policies and** procedures, noting that these should reflect individual and collective employment agreements and other contractual commitments (see footnote below). Change processes need to be transparent.
- **People doing the work are well placed to identify efficiencies or improvements** that may improve effectiveness and minimise the extent of redundancies. Proposals for changed staffing arrangements should be developed and discussed with the potentially affected staff and their union/s, prior to any final decisions being made.
- **Agencies will commit to a meaningful consultation** with sufficient time for potentially affected staff and their representatives to provide input to proposals and provide feedback on the final draft of proposals. Appropriate release time for employee representatives should be provided.
- **Retention of skilled public servants in employment is preferable to the extent possible** and options to enable this are actively developed and considered through the consultation process. Approaches should consider attrition, reconfirmation, reassignment, redeployment or retraining into alternative roles in the agency, or redeployment into (suitable alternative) vacancies across the system.
- **Agencies should support individual development** to assist redeployment or appointment of people at risk of redundancy and build public service capability to deliver effective, efficient and responsive services.
- **Where reductions in staffing occur, this should not simply result in sharing the same work across remaining employees**, but agencies will need to explore whether different, improved or more efficient ways of working will be needed to maintain public services.
- **Voluntary redundancy from a pool of affected employees, can be considered** as a selection criterion, at the employer's discretion. Agencies that intend to use voluntary redundancy as part of a change programme should consider carefully the retention of key public service skills, the point at which volunteers are sought and the criteria for approval of requests.
- If staff are likely to be released by reason of redundancy, then agencies should be aware of, and discuss with impacted individuals, the **restrictions on redundancy payments** as set out in Public Service Act 2020 [ss88](#).



- **Staff are engaged and supported** whilst the management of change is continuing, including the post-implementation phase of the process as the organisation moves into business as usual. This may include post-implementation review of the change.
- **Agencies should engage the Public Service Commission's Mobility Hub**, which can act as a broker to support matching of Public Service vacancies with those seeking redeployment.
- **Effective communication** with staff and their representatives is vital throughout the process.
- Agencies should also **note the heightened good employer obligation** that public service agencies are expected to meet under the Public Service Act 2020 and any commitments under tikanga¹ and agencies should ensure that their staff understand their obligations under the Code of Integrity and Conduct for Public Servants– [He Aratohu](#)

¹ <https://www.employmentcourt.govt.nz/assets/Documents/Decisions/2023-NZEmpC-101-GF-v-Comptroller-of-Customs-Judgment.pdf>



Public Service Heads of HR

Thursday 7 December 2023

Actions and Key Points

Out of scope

1.

2.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Out of scope

3.

4. Employment Relations update

In the last couple of months we've spoken about fiscal sustainability, particularly engaging with your people and their representatives on ways for meeting the expected fiscal challenges. As we see changes being implemented across the sector, it's timely to highlight the issue of re-employing someone that had recently received a redundancy payment.

A high-level overview of restrictions on redundancy payments - [Section 88 of the Public Service Act](#) notes the restrictions:

1. *A public service employee who has received a notice of termination by reason of redundancy is not entitled to a redundancy payment if, before the employee's employment has ended, the employee—*
 - a) *is offered and accepts another position as an employee in the State services (either in the employee's current department or interdepartmental venture or elsewhere in the State services) that—*
 - i) *begins before, on, or immediately after the date on which the employee's current position ends; and*
 - ii) *is on terms and conditions of employment (including redundancy and superannuation conditions) that are no less favourable; and*

¹ Out of scope

- iii) *is on terms that treat service within the State services as if it were continuous service; or*
- b) *is offered an alternative position as an employee in the State services (either in the employee's current department or interdepartmental venture or elsewhere in the State services) that—*
- i) *begins before, on, or immediately after the date on which the employee's current position ends; and*
 - ii) *is a position with comparable duties and responsibilities to those of the employee's current position; and*
 - iii) *is in substantially the same general locality or a locality within reasonable commuting distance; and*
 - iv) *is on terms and conditions of employment (including redundancy and superannuation conditions) that are no less favourable; and*
 - v) *is on terms that treat service within the State services as if it were continuous service.*

There are some simple actions that can be taken:

- **The current employer** – during the change management process, educate staff about the provisions in the Act. If an employee is at risk of redundancy, they can be advised that if they receive an offer from another employer from the State services prior to their last day, they must advise the HR team. HR staff can meet with the employee and discuss the offer in relation to the Act.
- **The prospective employer** – during recruitment, likely at preferred candidate stage, can ask any applicant who is currently employed in the public sector, if they have received notice of redundancy, or left employment with a redundancy payment. During reference checks, they should also ask if under notice of redundancy.
- **The employee** – be transparent about job offers, the timing and conditions of employment offers

We have seen that the Public Service Association (PSA) has produced material for their members that refers to these restrictions, so it likely that your staff are already aware of this legislation. As always, where agencies have concerns about any particular issues they are facing, they may wish to seek their own legal advice.

5. The rest of this document is out of scope