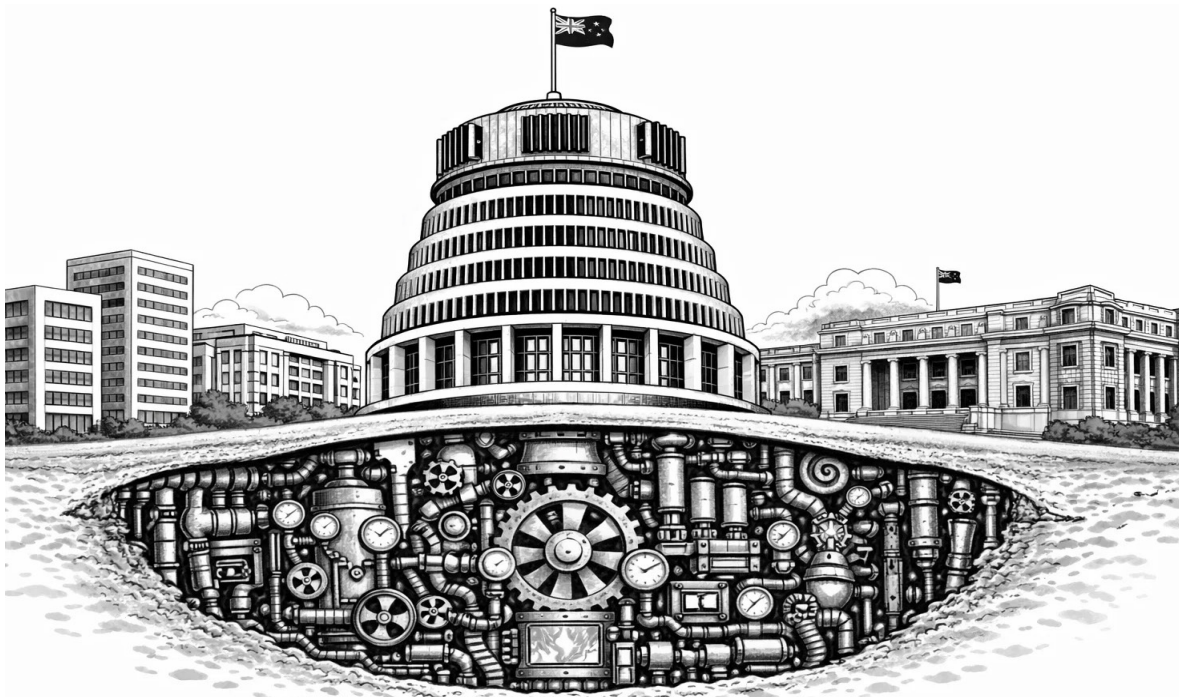


WHO RUNS THE COUNTRY?

RESTORING DEMOCRATIC CONTROL OF NEW ZEALAND'S PUBLIC SERVICE

APRIL 2026

OLIVER HARTWICH



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Executive Summary

The government elected in 2023 promised sweeping reform. It is an open secret in Wellington that the public service was less than enthusiastic about delivering it.

Ministers found it hard to translate their ideas into practice. The officials responsible for implementation were not always willing – or able – to turn policy into reality. Everyone in Wellington knows this. Nobody says so publicly. Politicians cannot admit they lack control of the public service without looking weak. Bureaucrats cannot admit to frustrating an elected government because they are supposed to be neutral.

This is a charade. It has little to do with the reality of government in New Zealand these days.

The Public Service Commissioner appoints all chief executives and sits above ministers in the machinery of government, a gatekeeper between elected politicians and the bureaucracy they are meant to control.¹ This arrangement was not designed to produce the outcome it now produces. But it has created a gap between democratic accountability and administrative control that good faith alone cannot bridge.

The problem is not bad people. It is bad institutions. New Zealand's public service rewards conformity to the Commissioner's expectations rather than responsiveness to ministers. Chief executives whose reappointment depends on the Commissioner have every reason to prioritise the system's preferences. Ministers who cannot appoint or remove them have no lever to change this.

Public administration scholars have documented this pattern under various names: bureaucratic drift, implementation resistance, accountability diffusion.² The American legal scholar David Noll gives the sharpest version, describing how agencies systematically undermine programmes they are mandated to deliver.³ Noll wrote about sabotage flowing downward from hostile political appointees. New Zealand's problem is the mirror image: resistance flowing upward from a permanent bureaucracy that holds all the implementation levers.

Not every delay is obstruction. Legal constraints, procurement rules, capacity limitations and coalition dynamics all slow implementation.⁴ But the question is whether the system makes it structurally easy for officials to frustrate elected governments and structurally hard for ministers to do anything about it. In New Zealand, the answer is yes on both counts.

New Zealand's constitutional documents describe a system that should prevent this. The Cabinet Manual requires political neutrality, free and frank advice and faithful implementation of ministerial decisions.⁵ These principles are codified in the Public Service Act 2020.⁶ The problem is not the principles but the institutional design, which contradicts them at every turn.

This report examines three models. The preferred one comes from Germany, where ministers appoint their top officials while a rigorously qualified career service below operates under genuine neutrality.⁷ Germany delivers both democratic accountability and institutional expertise through a small category of political civil servants at the apex, protected from patronage by qualification requirements, court oversight and published appointments.

Below this tier, career officials enjoy permanent tenure and a statutory duty to object to unlawful instructions – a mechanism that protects legality more effectively than New Zealand's aspirational neutrality. The German system succeeds because of three principles working together: political alignment at the apex, career protection below, and the duty to object as the hinge between them.

The dual-tier architecture of State Secretaries and career officials is how Germany expresses those principles. New Zealand needs the principles. It does not need to replicate the architecture in one step.

The fallback draws from Australia, where the Prime Minister can dismiss department secretaries and the Public Service Commission sits within government rather than above it.⁸ Australia's experience – including the Robodebt scandal – shows the cost of appointment power without supporting infrastructure: without a duty to object, career protections and qualification requirements, political control can collapse into complicity. The United States offers a cautionary anti-model: wholesale politicisation is unsuitable for a small country.

New Zealand should move toward the German model through staged reform. In the first phase, ministers should gain the power to appoint their own chief executives from a qualified pool. The statutory duty to object should be established alongside this, with defined escalation steps and protection against reprisal. The career service beneath the political tier should be protected by statute. Qualification requirements should replace the generic manager approach. Portfolios must be aligned with departments.⁹ And the Public Service Commission should sit within the Prime Minister's department rather than above ministers as an independent gatekeeper.

In the second phase, once the duty to object and the new accountability framework have become established practice, a dedicated State Secretary function should be introduced in departments whose scale and complexity justify separating political direction from operational management. This is the mature form of the German model, adapted to New Zealand's constitutional context. The staging ensures that the institutional culture the full model requires is built by the reform itself, in the right sequence.

The stakes are simple. If elected governments cannot choose who runs the bureaucracy on their behalf, democracy is diminished.

Chapter 1: The problem

The government elected in October 2023 came to office with a clear mandate for change. It had promised reforms to housing, education, health, infrastructure and regulation. The voters had spoken. The ministers were appointed. The programme was announced.

Then came the hard part.

Turning those plans into action required the cooperation of a public service that ministers did not choose, could not direct with full authority and could not replace when cooperation was not forthcoming.

It is an open secret in Wellington that the permanent government met the reform agenda with something less than enthusiasm. Ministers struggled to translate their ideas into practice. The officials responsible for implementation were not always willing or able to deliver.¹⁰ Insiders know this. It rarely makes the news.

The silence is a double bind. Politicians who admit limited control look weak. Bureaucrats who admit to frustrating a government's agenda violate the neutrality they are supposed to embody.

Both sides maintain the fiction. Neither side believes it.

What counts as evidence?

Documenting bureaucratic resistance is inherently difficult. Officials who frustrate a government's agenda do not leave a paper trail marked "obstruction." But the evidence does not depend on proving motive. It depends on observing institutional structure and the incentives it produces.

The structural facts are beyond dispute. The Commissioner, not the minister, appoints all chief executives.¹¹ Performance management and reappointment likewise rest with the Commissioner, not the minister. Chief executives serve fixed terms and can only be removed by the Commissioner for just cause or excuse, with the agreement of the Governor-General in Council. Ministers have no removal power.¹² Ministers sit in the Beehive, physically separated from their departments.¹³ A single department can report to twenty different ministers.¹⁴ New Zealand has the lowest ratio of senior officials to ministers of any OECD country surveyed.¹⁵

The incentives follow logically. A chief executive whose career depends on the Commissioner will align with the Commissioner's priorities and be cautious about ministerial demands that cut against the system's preferences. A minister who cannot fire has no credible threat. A department serving twenty ministers has no clear principal.

The behavioural evidence is visible. Churn between portfolios undermines deep expertise.¹⁶ Ministerial adviser numbers grow because ministers do not trust departmental capacity.¹⁷ Performance contracts between ministers and chief executives become exercises in mutual fiction, both sides declaring success regardless of outcomes.¹⁸ Information filters upward through layers of hierarchy, shaped and curated by the very people whose performance the minister is supposed to assess.¹⁹

None of this requires bad faith. Officials acting rationally within these incentives will behave exactly as described, without any conscious decision to obstruct.

The Cabinet Manual sets out the constitutional bargain plainly. Officials must be politically neutral. Advice must be free and frank. Once ministers decide, the public service must implement.²⁰ These are not aspirational platitudes. They are the stated operating principles of the New Zealand state.

The institutional design contradicts every one of them.

Political neutrality requires that officials implement the government's agenda regardless of their personal views. But the appointment and accountability system gives officials no institutional reason to do so. Their careers depend on the Commissioner, not the minister. Functional neutrality becomes functional independence.

Free and frank advice requires honesty between officials and ministers. But physical separation, information filtering and a performance system that rewards the appearance of success all conspire against it.

Implementation requires a chain of command running from minister through department. In practice, the chain runs from the Commissioner through the chief executive. The minister sits outside it, in a separate building, negotiating with an official appointed by someone else.

The American legal scholar David Noll coined the term "administrative sabotage" to describe what happens when agencies deliberately undermine the programmes they are charged with delivering.²¹ Noll's examples are American: political appointees gutting environmental protections, defunding consumer agencies, reinterpreting statutes to nullify their intent. His framework was built for a system where sabotage flows downward, from ideologically hostile political leaders to the programmes beneath them.

Noll's taxonomy transfers uncomfortably well when resistance flows the other way. Officials who disagree with a government's agenda can slow-walk implementation, bury policy intent under layers of process, reinterpret instructions through operational guidance that quietly changes the substance, or commission reviews and flag complications until the government's term expires and the policy dies of old age. None of this requires open defiance. The tools are procedural, deniable and effective.

A caveat is necessary. Bureaucratic caution is not always obstruction. Legal complexity, procurement requirements, capacity constraints and coalition coordination genuinely slow implementation. Good officials raise genuine risks. The difficulty is that the same procedural tools serve both legitimate caution and illegitimate resistance, and the system provides no way to distinguish between them. A minister who suspects foot-dragging cannot test the hypothesis because the minister cannot change the personnel.

New Zealand's own scholars have studied the same phenomenon. Chris Eichbaum and Richard Shaw developed a typology of politicisation identifying three forms: formal politicisation through Cabinet's role in appointments, administrative politicisation through ministerial advisers and – most relevantly – functional politicisation.²²

Functional politicisation emerges from within the bureaucracy itself: the tendency of officials to develop their own policy preferences and pursue them regardless of the government of the day. Not because officials carry party cards. Because institutional cultures, recruitment patterns and professional networks produce a worldview that treats certain policy directions as obviously correct and others as retrograde.

Eichbaum and Shaw note that politicisation is now "bubbling up from within departments and agencies."²³ This is how bottom-up resistance operates in a Westminster system. When a government's agenda conflicts with the institutional worldview, the system does not rebel openly. It simply fails to perform.

Ministers are accountable to Parliament. They stand in the House, face questions, defend policies and take the blame when things go wrong.

But ministers cannot choose the people who run their departments.

The Public Service Commissioner appoints all chief executives. Ministers can indicate matters the Commissioner should take into account. They can suggest panel members. They can be consulted. But the Commissioner chairs the interview panel and makes the decision.²⁴ Ministers receive the outcome, not the choice.

If a chief executive proves incompetent, insubordinate or ideologically misaligned with the government's objectives, the minister cannot remove them. The chief executive serves a five-year term.²⁵ The government must wait, lobby the Commissioner or swallow the arrangement.

The Commissioner's recommendation is subject to confirmation by the Governor-General in Council, following consideration by Cabinet. In theory, Cabinet could decline to confirm. In practice, this has happened so rarely since 1988 that it functions as a reserve power, not as a mechanism of governance.²⁶

Tony Burton, writing for The New Zealand Initiative, has identified this as a problem of institutional design rather than individual failure.²⁷ The Commissioner's "leadership team" of chief executives functions as a centralised hierarchy that weakens the accountability line between ministers and departments. Performance contracts are broken because both sides have incentives to declare success regardless of outcomes. The result is a system that manages perception rather than performance.

The public service has developed its own institutional continuity, independent of the elected government. Chief executives rotate through the machine. Governments come and go. The machine endures.

New Zealand has also embraced the "generic manager" model. The idea is that management is a transferable skill.²⁸ A person capable of running one department can run any department. This leads to the practice of rotating chief executives between portfolios. Someone might lead the Department of Conservation, then move to Internal Affairs, then to Health.

The assumption is that good management transcends subject matter. The assumption is wrong.

The result is officials who know how to manage processes but lack deep policy knowledge. When a minister wants advice rooted in long experience, the chief executive often cannot provide it. Three years into the job, planning to move on in two, still learning the basic geography of the portfolio.

The ministerial offices represent another structural failure. In New Zealand, ministers do not work in their departments. They sit in the Beehive, Parliament's executive wing, physically separated from the officials who carry out their policies.²⁹ Their personal staff occupy offices outside the department entirely.

The distance is architectural, not merely symbolic. Minister and chief executive operate in separate organisational structures, often at cross purposes. When they disagree, there is no clear hierarchy. The minister cannot fire. The chief executive can stonewall.

What should be a clear chain of command within one organisation has become a negotiation between two.

New Zealand's portfolio structure compounds the problem. Eighty-one ministerial portfolios spread across 28 ministers and 43 departments make it one of the most complex executive governments in

the developed world.³⁰ MBIE reports to twenty different ministers. Nobody is clearly in charge. A Treasury review in 2024 found the department administers 233 separate appropriations across 23 portfolios – a figure that makes coherent management all but impossible.³¹

The New Zealand Initiative's report *Unscrambling Government* documented this problem in detail.³² Norway governs with 20 ministers across 17 coherent ministries. New Zealand has more than three times as many portfolios. The result is not sophistication. It is confusion.

OECD data compiled by the European Parliament makes the point starkly.³³ New Zealand has the lowest ratio of senior officials to ministers of any OECD country surveyed: just eight. Sweden has 19. Germany 106. The United Kingdom 169. The United States, at the other extreme, 531. New Zealand gives its elected ministers the smallest leadership cadre of any developed democracy. It is not the norm. It is the outlier.

The fiction of political neutrality has long been maintained by pretending that chief executives are genuinely independent from politics. They follow the law. They serve whoever is in government. They have no partisan allegiances.

But "neutrality" in practice means conformity to an unspoken consensus. Officials must appear above politics by adopting the politics of the centre. They are neutral in the sense of being compliant, not in the sense of being apolitical.

The public cannot remove a chief executive. Parliament cannot remove a chief executive. Only the Commissioner can. And the Commissioner answers to no one at election time.

This is not accountability. It is the hollow echo of accountability, a system that performs democratic governance while the real decisions are made elsewhere.

Chapter 2: How New Zealand got here

Understanding this arrangement requires examining the machinery of government reforms of the past forty years.

The arrangement emerged not through deliberate centralisation but through incremental reform: each step justified on sensible grounds, each producing unanticipated consequences, each transferring power in the same direction, until the system crystallised.

Before 1988, New Zealand had a career civil service established by the Public Service Act of 1912: non-political, unified, with merit-based employment and independent appointments free from patronage.³⁴ Officials enjoyed generous superannuation and strong security. The scholar Hans-Ulrich Derlien noted the system produced deep institutional knowledge but resisted external change.³⁵

The system had clear strengths but a critical weakness: career officials could resist reform-minded ministers, secure in knowing they would outlast any government.

By the mid-1980s, the fourth Labour government pushed ahead with root-and-branch restructuring of the machinery of government.³⁶ Driven by accountability, contractualism and decentralisation, New Zealand went further than any other jurisdiction. Gregory titled his chapter “Breaking Sharply with the Past,” capturing the ambition and recklessness.³⁷

The State Sector Act 1988 was the centrepiece.³⁸ It moved chief executives from permanent employment to five-year fixed-term contracts. This was meant to make them more accountable to their ministers, more responsive to government policy, more likely to be removed if they failed to deliver. Chief executives gained greater autonomy to manage their departments, hiring their own staff and negotiating pay and conditions. The Act reconstituted the role as a single State Services Commissioner, replacing the multi-member State Services Commission that had existed since 1962 and drawing on the tradition of independent oversight established with the Public Service Commissioner in 1913.

But something unexpected happened.

Removing tenure from chief executives did not make them more accountable to ministers. It made them more accountable to the Commissioner. Chief executives who no longer had the security of permanent employment became focused on satisfying the person who held the power of reappointment. That person was the Commissioner, not the minister.

Ministers could have input, but the Commissioner held the final say. As the reforms bedded in, chief executives learned that their career prospects depended on the Commissioner’s assessment of their performance, not the minister’s satisfaction with their work. The accountability ran upward to the bureaucratic system, not sideways to the elected minister.

An officially commissioned review of the state sector reforms in 1996, conducted by Allen Schick for the State Services Commission, concluded there was cause for concern. The reforms had delivered accountability but at too high a cost, with fragmentation and inflexibility.³⁹ The Cave Creek tragedy in 1995, in which fourteen people died when a viewing platform in a national park collapsed, underlined how diffuse accountability had become. No single person was held responsible.

The consequences of the 1988 rupture went beyond the accountability question. Derlien and Rouban, in their comparative analysis of public service systems, observed that New Zealand’s reforms were “the most radical managerial reform” among the countries they studied and had “destroyed the traditional egalitarian ethos of the public service.”⁴⁰ The new chief executives were better paid on individual

contracts. Middle managers were placed under strict productivity guidelines. The unified career service, with its shared identity and institutional loyalty, was replaced by a fragmented collection of departments run on private-sector management principles. What was lost was not merely a set of employment conditions. It was a culture of public service that had taken decades to build.

Subsequent reforms compounded the problem. Each wave aimed at strengthening the public service and insulating it from political interference. The effect in every case was to strengthen the Commissioner's position and deepen the insulation of the bureaucracy from ministerial control.

The Public Service Act 2020 made the arrangement explicit.⁴¹ The Commissioner appoints chief executives, taking into account matters ministers identify and consulting on panel members. But the Commissioner decides. The Act was described as strengthening the "independent role of the Commissioner in the appointment and performance management of chief executives" and as "contributing to preserving public trust and confidence in a politically neutral Public Service."⁴²

But the 2020 Act went further than merely codifying existing practice. It created new collective obligations for chief executives under the Commissioner's direction. Burton's analysis of the Act identifies how it entrenched the Commissioner's gatekeeping function and imposed system-wide priorities that dilute individual departmental accountability to ministers.⁴³ The "spirit of service" and the collective duties of the chief executive "leadership team" sound unobjectionable in the abstract. In practice, they created a parallel loyalty structure. Chief executives owe duties not just to their ministers but to the Commissioner's vision of a unified public service. When those obligations conflict, the Commissioner's authority prevails because the Commissioner controls reappointment.

The leadership team itself functions as an instrument of the Commissioner's authority rather than as a genuine coordinating body. Burton argues it operates as a centralised hierarchy that further weakens the minister-department accountability line.⁴⁴ Chief executives meet as a collective under the Commissioner's leadership. They develop shared priorities. They align their departments with system-wide objectives. The effect is to make chief executives accountable to the collective and to the Commissioner who leads it, rather than to the individual ministers whose portfolios they nominally serve.

This is what might be called meta-reform: reforms at the level of the machinery of government itself.⁴⁵ The public service was being reformed, restructured and renewed. But the machinery governing the public service was not reformed in ways that would make it democratically accountable.

The Public Service Amendment Bill

The current government has recognised that something is wrong. The Public Service Amendment Bill, introduced in July 2025, proposes changes to performance management, merit-based reappointment processes and the scope of chief executive obligations. The Bill has been reported back from select committee and, at the time of writing, is at the committee of the whole House stage.⁴⁶ It would remove automatic reappointment of chief executives in favour of contestable processes, expand Commissioner oversight of performance and integrity, and strip out some of the broader social objectives grafted onto chief executive roles by the 2020 Act.

These are sensible steps at the margin. But they do not reach the structural problem this report identifies. The Bill leaves the Commissioner's appointment power intact. It does not give ministers the ability to choose their chief executives. It does not address portfolio fragmentation, departmental

sprawl or the physical separation of ministers from departments. It reforms performance management within the existing accountability structure rather than changing the structure itself.

The Amendment Bill may improve performance at the margins. It does not change who runs the machinery of government. The Commissioner will still appoint. Ministers will still be excluded from the appointment decision. The fundamental democratic deficit will remain.

Governments came to power with policy agendas. They found that their ability to implement those agendas was constrained by a bureaucracy they could not staff according to their own lights. They could appoint their ministers. Their ministers could not appoint their chief executives. The machinery of government had developed a power of its own.

Policy reform requires bureaucratic buy-in. The bureaucracy, however, answers to the Commissioner, not to the minister sponsoring the reform. If the bureaucracy is sceptical of a policy, it can drag its feet, obfuscate and delay, knowing that the minister cannot simply replace the chief executive with someone more amenable.

Governments become dependent on the goodwill of the bureaucratic system. The bureaucracy becomes powerful not through any intention to be powerful but simply because it answers to no one at election time and can operate according to its own logic.

The tragedy is that this was not inevitable. The reforms of 1988 could have been designed differently. The shift to fixed-term contracts could have been paired with explicit power for ministers to appoint and dismiss chief executives. But that was not the path taken.

Instead, layer upon layer of reform insulated the bureaucracy further from political control, until ministers became accountable for departments they do not control.

Chapter 3: The German model

Germany offers a fundamentally different approach to the same problem. The German system has created a constitutional framework that separates political appointment at the top from career civil service below, giving elected ministers genuine control over programme delivery whilst protecting the career bureaucracy from politicisation.

Article 65 of the German Basic Law states that the Federal Minister directs their department as a chief executive and is responsible for its organisation and administration.⁴⁷ This is unambiguous. The minister is the CEO of the department. Unlike in New Zealand, the constitutional expectation is explicit: ministers run their departments.

The political apex: two types of State Secretary

Directly below the minister sit the State Secretaries, but the term covers two distinct roles that are often conflated in comparative discussions. The distinction matters.

Parliamentary State Secretaries (*Parlamentarische Staatssekretäre*) are political figures, typically Members of the Bundestag, who serve as the minister's political representative in parliamentary proceedings.⁴⁸ They deputise for the minister in parliament, manage relationships with parliamentary committees and handle political communication. They are political appointments in the fullest sense: they come and go with the government.

Civil service State Secretaries (*beamtete Staatssekretäre*) are senior officials who run the internal machinery of the ministry.⁴⁹ They are classified as political civil servants (*politische Beamte*) under §54 of the Federal Civil Service Act, which means they can be placed into temporary retirement (*einstweiliger Ruhestand*) at any time if the government concludes they are no longer aligned with its policy direction.⁵⁰ They are not career civil servants in the ordinary sense. They serve at the minister's pleasure. When a government changes, the incoming minister can place them into temporary retirement, and typically does so, though departure is not automatic.

The function of the civil service State Secretary is to translate ministerial priorities into administrative action. This is the role Bundestag research literature calls the "transformation function" (*Transformationsfunktion*).⁵¹ The State Secretary bridges the gap between political goals and bureaucratic implementation. The State Secretary manages the department's executive office, drives policy delivery and ensures the department executes the government's programme. Below the State Secretary sits the career civil service.

Both types of State Secretary serve the same fundamental purpose: they give the minister a team of trusted people at the top of the department who are committed to the government's programme. The New Zealand system has no equivalent. The minister works in a separate building from the department, staffed by a chief executive chosen by someone else.

The career civil service

The career civil service in Germany is protected by statute. Officials in the *Beamte* status have permanent employment guarantees that are almost unbreakable.⁵² They cannot be dismissed without cause. They have strong superannuation rights. They are bound by a statutory duty regarding the lawfulness of their official actions (*Remonstrationspflicht*), which is set out in §63 of the Federal Civil Service Act.⁵³

This *duty to object* is the mechanism that makes the German model work. It is not a general duty of political neutrality but specifically a duty relating to legality. §63 provides that civil servants bear full personal responsibility for the lawfulness of their official actions. If an official believes an instruction is unlawful, they must immediately raise the concern with their superior. If confirmed, they must escalate to the next authority. If that authority also confirms, the official is relieved of personal responsibility and must carry out the instruction, with one critical exception: where the order violates human dignity, constitutes a criminal offence or is otherwise recognisably punishable.⁵⁴ In those cases, the official must refuse.

This is not an aspiration. It is a legal mechanism with defined escalation steps, clear allocation of responsibility and a hard floor of non-compliance where fundamental law is at stake. Career officials can raise legality concerns without fear of reprisal because they have permanent employment protection. The political tier cannot punish an official for exercising the remonstrations duty. The result is that legality and integrity are protected by structure, not by hope.

The mechanism is not theoretical. When Interior Minister Horst Seehofer issued directives under his 'Masterplan Migration' for border pushbacks considered legally questionable under asylum law, federal police officers invoked the remonstrations duty.⁵⁵ They raised formal legal objections through proper channels, forcing the government to respond on the legal merits before implementation. The system created a structured pathway for legality concerns that neither silenced officials nor paralysed government.

The number and scope of political appointments

The number of political appointees is small and precisely defined. Bundestag research on the designated political civil service positions lists approximately 100 positions at the federal level under §54 of the Federal Civil Service Act, and around 400 additional positions across the sixteen *Länder* states.⁵⁶ These are concentrated in specific roles: State Secretaries, Directors-General (*Ministerialdirektoren*), certain ambassadors, intelligence service heads and the Federal Prosecutor General.⁵⁷

Derlien's own empirical research provides the most authoritative data on how this system operates during government transitions. At the federal level, roughly 147 positions are subject to the temporary retirement mechanism: approximately 117 *Ministerialdirektoren* (division heads) and 30 *beamtete Staatssekretäre*.⁵⁸

The critical finding, which demolishes the patronage objection, is that the overwhelming majority of these positions are filled from within the career civil service. After a change of government, only about ten per cent of the vacancies created by temporary retirements are filled by genuine outsiders from universities, industry or interest groups.⁵⁹ The rest go to career civil servants who have risen through the system and earned their appointments through demonstrated competence. The political civil service is not a patronage machine. It is a mechanism for selecting politically aligned leaders from a pool of career professionals.

Contemporary research has extended Derlien's findings considerably. Veit and Vedder built an original dataset of more than 2,100 top civil service appointments in Germany from 1949 to 2017 – the most comprehensive empirical picture of the political civil service in operation.⁶⁰ The pattern is clear: "backstage political experience" among senior civil servants has increased over time. This is not a corruption of the system. It is the system working as designed. Veit and Scholz, studying 341 civil servants in the two highest ranks of federal ministries, found party politicisation at the top but no

distinct “fast track” for loyalists.⁶¹ Merit and political alignment coexist. The German system combines them rather than sacrificing one for the other.

Entry to these positions is governed by qualification requirements. The *Laufbahnprinzip*, the career path principle, applies throughout the civil service.⁶² Officials must meet formal qualifications in law, economics or public administration to enter senior ranks. A politician cannot appoint an unqualified party loyalist to a civil service position. Qualifications matter.

However, the key innovation is that for the political tier, the principle of selecting the best-qualified person still applies, but it applies within a politically aligned pool.⁶³ A minister looks for the most competent person available to serve as State Secretary. That person should be politically aligned with the government. But they should also be genuinely competent.

Why Germany avoids patronage

The German model is sometimes dismissed as opening the door to cronyism. The system prevents this through multiple interlocking mechanisms that deserve enumeration.

Administrative courts (*Verwaltungsgerichte*) can review the legality of senior appointments.⁶⁴ A passed-over candidate with superior qualifications can challenge an appointment in court, and German administrative courts have a well-established jurisprudence on the merit principle (*Bestenauslese*). This is not theoretical: challenges occur and sometimes succeed. The legal culture around justifying staffing decisions means that every appointment of a political civil servant must be defensible on grounds of competence as well as political alignment.

In April 2024, the Federal Constitutional Court reinforced these limits. In its ruling on police presidents in North Rhine-Westphalia, the court struck down a state law designating them as *political civil servants*.⁶⁵ The court established two tests. The “bridgehead” test (*Brückenkopf-Test*) requires that a position designated as political must serve as a genuine interface between the political executive and the administrative apparatus. The “innermost circle” test (*innerster Kreis*) limits political civil servant status to those positions that form part of the minister’s immediate leadership team.

Police presidents, the court held, did not meet either test. They were operational commanders, not policy translators. Their classification as political civil servants was an impermissible expansion of political patronage downward into the operational hierarchy.

The ruling matters because it demonstrates that the German system actively polices the boundary between the political tier and the career service. A state government attempted to extend political appointment power into operational roles. The Constitutional Court stopped it. The boundary is not a gentleman’s agreement. It is constitutional law, enforced by an independent judiciary.

Appointments to the political civil service are published and subject to parliamentary scrutiny.⁶⁶ The narrowness of the political tier is itself a constraint: with only around 100 federal positions designated as political, the scope for patronage is limited by design. A minister who fills those positions poorly will find it visible quickly because the positions are prominent and the appointees are expected to perform.

The Bundestag paper emphasises that the merit principle is not suspended for political civil servants but operates alongside the requirement for political alignment.⁶⁷ The guardrail is not “either merit or politics” but “both merit and politics,” with the merit component enforceable through administrative law.

These mechanisms matter for New Zealand because they answer the most common objection to political appointment: that it will degenerate into cronyism. It need not, provided the institutional design prevents it.

The model's weaknesses

The German model has genuine vulnerabilities that deserve acknowledgment.

Coalition bargaining can prioritise party balance over competence. State Secretary positions sometimes follow party arithmetic rather than merit, producing occasional appointments where political debt matters more than expertise.

The model can create over-conformity at the top. Political civil servants who know they can be placed into temporary retirement may become excessively cautious about challenging the minister on policy. The remonstrations duty provides a floor of legality but not candour on policy questions.

The system depends on a strong legal culture and an independent judiciary willing to enforce the merit principle. In a jurisdiction with weaker rule-of-law traditions, the same formal structures might produce different outcomes.

These are real risks. They are also manageable. Coalition effects on staffing are a feature of coalition government everywhere and are not unique to the political civil service model. Over-conformity at the top is a lesser problem than the current New Zealand arrangement, which produces over-independence at the top and no accountability to the elected government at all. And New Zealand's legal culture, while different from Germany's, is robust enough to support judicial oversight of senior appointments. The risks of the German model are real but smaller than the risks of the status quo.

How the model produces genuine neutrality

What Germany recognised, and what the Bundestag paper articulates, is that systems which pretend the apex of the bureaucracy is somehow above politics produce covert politicisation rather than genuine neutrality.⁶⁸ The consequence is distrust, dysfunction and informality. The German model is more honest. It says: yes, the very top tier is political. Ministers appoint people aligned with their government. But we protect the career service below through statute and through the remonstrations mechanism. Both tiers know their role. The political tier does its job openly. The career service operates with genuine protections.

The result is not politicisation of the entire bureaucracy. It is transparent politicisation at the apex and genuine neutrality below. The career civil service, knowing it cannot be dismissed for raising legality concerns, can speak candidly. The political tier, knowing it is openly aligned with the government, does not need to pretend to be neutral.

Eichbaum and Shaw's analysis of functional politicisation in New Zealand shows how pretending the top is apolitical produces informal workarounds.⁶⁹ Ministerial offices expand beyond reason. Advisers act as shadow executives. The minister and the chief executive operate at cross purposes. Trust erodes. Information leaks. The German model avoids these pathologies because it is honest about where politics operates and builds genuine protections where it does not.

The UK offers a cautionary counterpoint. When the Francis Maude reforms of the 2010s increased prime ministerial control over permanent secretary appointments without building the supporting

architecture of qualification requirements and career protections, the result was personalisation and dysfunction rather than principled reform.⁷⁰ The guardrails matter as much as the appointment power. Chapter 6 examines this in detail.

Chapter 4: The Australian alternative and its limits

Australia's approach offers the most straightforward intermediate step on the path toward the German model. Under the Australian Public Service Act 1999, department secretaries are appointed by the Governor-General on the Prime Minister's recommendation, with the capacity for removal that is substantially more direct than New Zealand's system.⁷¹ The Public Service Commission sits within the Prime Minister and Cabinet portfolio rather than above ministers as an independent authority. This is simpler to implement than full German-style reform and represents an incremental shift from the current New Zealand arrangement.

There are clear advantages to the Australian model. It explicitly aligns the top bureaucracy with government policy. It removes the gatekeeper function that currently stands between ministers and department control. It acknowledges the political reality of government machinery rather than pretending to an unattainable neutrality. An incoming government in New Zealand could adopt Australian-style reforms within a single parliamentary session. The architecture is relatively straightforward and does not require the degree of institutional redesign that a full German model demands.

If political economy makes full reform difficult in the short term, the Australian model is superior to New Zealand's status quo. This report does not dismiss it. But it is a stepping stone, not a destination, and the reasons deserve careful examination.

The evidence from Australia itself

Australia's own experience provides a caution. The Thodey Review of 2019, commissioned to assess the Australian Public Service after a decade of political control, found that the APS was "not performing at its best."⁷² Despite having appointment power, despite ministers having more direct control, the system still produced fragmentation, poor coordination and delayed delivery. The APS faced criticisms of risk aversion, siloed thinking and resistance to cross-government collaboration.

More damaging still is the Robodebt Royal Commission of 2023. Robodebt was the unlawful government automated welfare scheme that operated from 2015 to 2019, illegally raising debts totalling approximately \$1.76 billion against some 526,000 people. The Royal Commission found it was "the worst failure of public administration in history."⁷³ Commission findings detailed how officials at every level either actively connived at illegality or consciously looked away. Commissioner Catherine Holmes identified that officials "lost their grounding in basic administrative law and accepted an unprecedented and perverse misuse of coercive state power against the citizen."⁷⁴

The finding that matters for this analysis is that Robodebt occurred within the Australian system of ministerial-controlled appointments. The Prime Minister and the department secretaries had the power to appoint and remove the officials who administered the scheme. The system failed not because officials had too much independence but because political leadership failed to enforce legality and because the structural incentives did not prevent it. A sceptic will ask: if Australia can still produce Robodebt, why would copying Australia fix New Zealand? That question deserves an honest answer.

The comparison with Germany is instructive. The Robodebt Royal Commission documented a culture of "over-responsiveness" to ministers: officials who were so eager to please political masters that they abandoned their duty to test the legality of what they were asked to do.⁷⁵ The Australian system had the power of appointment but lacked the countervailing mechanism that prevents appointment power from collapsing into complicity. Germany's duty to object is precisely that mechanism. It gives career

officials a statutory duty and a protected pathway to raise legality concerns. Had Australian officials possessed such protection, the unlawful income averaging at the heart of Robodebt would have faced formal legal challenge from within the bureaucracy.

The academic literature has since documented exactly how this compliance culture operated. Henman identifies “strategic wilful ignorance” as the central pathology: feigning ignorance, not asking questions, giving ambiguous information, institutional bullying.⁷⁶ These are precisely the behaviours the *duty to object* is designed to prevent. The German escalation protocol forces officials to confront legality concerns formally and on the record. Wilful ignorance becomes structurally impossible. Priergaard goes further, arguing that the Royal Commission’s recommendations were insufficient because they addressed symptoms rather than institutional design.⁷⁷ The diagnosis was correct. The prescription was too weak.

The contrast extends to how each system treats dissent. In *Comcare v Banerji* (2019), the High Court of Australia upheld the termination of a public servant who had anonymously criticised government policy on social media during her own time.⁷⁸ The court held that the implicit freedom of political communication did not override the public service code of conduct. An Australian official who raises concerns, even anonymously and outside working hours, can be fired. A German official who raises legality concerns through the §63 escalation protocol cannot be. The two systems produce opposite incentives. One rewards silence. The other requires speech.

The missing feedback loop

The deeper problem with the Australian model, and with New Zealand’s current system, is not merely who appoints. It is the absence of a structural mechanism that prevents bad policy from reaching the implementation stage unchallenged.

Consider New Zealand’s recent record. KiwiBuild promised 100,000 affordable homes over ten years but collapsed, delivering a fraction of its target.⁷⁹ Auckland Light Rail consumed years of planning and hundreds of millions in consultancy fees without a metre of track being laid.⁸⁰ Three Waters was reversed by the incoming government.⁸¹ Te Pukenga proved so dysfunctional that the government announced its disestablishment within months.⁸²

These were not implementation failures. They were policy failures: housing targets unmoored from market reality, a rail project without a business case, local infrastructure seized against community consent, centralisation imposed where responsiveness mattered.

The system lacked a structural mechanism to challenge policy before implementation. Nobody inside government had the duty or protection to say: this will not work, and here is why.

In a German-style system, the political civil service translates political goals into administratively feasible programmes. This translation function is not a rubber stamp but where political aspiration meets administrative reality. A *beamteter Staatssekretär* who tells the minister that a housing target is undeliverable or that a transport project lacks a business case is performing this translation function. The *duty to object* provides the harder backstop: where a policy direction raises legality concerns, officials have a duty to escalate. Between the two mechanisms, the system creates a structured feedback loop that forces the political level to confront the feasibility and legality of its own proposals.

New Zealand’s system has no equivalent. The Commissioner does not perform this function. Chief executives, dependent on the Commissioner for reappointment, have no institutional incentive to challenge a minister’s pet project and no protection if they do. Ministerial advisers lack the technical

expertise. The result is that policy proposals can pass through the entire machinery of government without ever being subjected to rigorous internal challenge. What reaches the implementation stage is whatever survived the political process, not whatever survived serious administrative scrutiny.

This is the structural gap that matters most. The question is not merely “who appoints the chief executive?” It is “does the system contain a mechanism that prevents bad policy from becoming expensive failure?” New Zealand’s answer is no. Germany’s answer is yes.

Three reasons the Australian model falls short

First, the Australian approach changes who appoints but not what is broken in the underlying structure. Portfolio sprawl persists: a department reporting to twenty ministers does not become coherent because the PM now appoints the secretary. The secretary still faces conflicting ministerial demands. The portfolio maze remains unsolved.⁸³

Second, it centralises power in the PM rather than embedding accountability within departments. The minister remains at a distance from the secretary; the accountability is external to the department.

Ministers lack aligned capability, so they build parallel structures in ministerial offices. Australia risks moving power to the centre while leaving the minister-department gap intact. Germany puts accountability inside the department: the minister appoints, the State Secretary reports, the department aligns.

Third, appointment power without supporting infrastructure is insufficient. The Australian system had appointment power but lacked the duty to object: the statutory duty to raise legality concerns with defined escalation steps and protection against reprisal. It also lacked clear qualification requirements and administrative court review of merit. It had the instrument of control but not the guardrails that make control legitimate.

The Australian model addresses one element of New Zealand’s problem: who holds the appointment power. It does not address the fragmentation, the departmental embedding of accountability, the career service protection or the legality mechanism. New Zealand needs an approach that addresses the full set.

Chapter 5: The American cautionary tale

The United States presents a different cautionary lesson, not an alternative path. The Plum Book, the official listing of senior appointments available to the President, identifies approximately 9,000 political appointees across the federal government.⁸⁴ Compared to other democracies, this is extraordinary. Sweden has roughly 150 political appointees. Germany has around 150 to 160 at the federal level, or around 500 when the sixteen state governments are included. New Zealand currently has none at the chief executive level. The United States has 9,000.

The American system stems from a deliberate constitutional choice: the President is elected to lead the country and should be able to staff the government with people of their choosing. The resulting patronage system is vast. Federal agencies are staffed at multiple layers with political appointees who owe their position to the incumbent President. When administrations change, wholesale replacement occurs.

Noll's administrative sabotage framework applies to the American system in reverse. When hostile political leadership controls appointments, agencies are systematically gutted from the top through budget manipulation, non-enforcement of statutory duties, and hostile interpretations.⁸⁵ Environmental agencies defunded protection rules. Consumer agencies staffed with industry operatives slowed enforcement. The tools are procedural, deniable and effective.

The American model cannot transfer to New Zealand. The US President is popularly elected and vested with direct executive power; New Zealand's government is a Westminster cabinet system. More fundamentally, a small country of five million cannot absorb 9,000 political appointments without wholesale patronage replacing merit.

Yet the comparative data is striking. A European Parliament study drawing on OECD research compared the ratio of senior executive service officials to ministers across democracies.⁸⁶ The figures reveal something significant:

- United States: 531 senior officials per minister - United Kingdom: 169 senior officials per minister - Germany: 106 senior officials per minister - Sweden: 19 senior officials per minister - New Zealand: 8 senior officials per minister

Every other developed democracy gives its elected ministers some mechanism for political staffing. France operates the cabinet system where each minister appoints a cabinet of trusted advisers who sit within the ministry. Italy maintains the *gabinetto*, a ministerial personal office within the department. Sweden has State Secretaries who work directly with ministers. The United Kingdom has Special Advisers embedded in departments. The mechanisms vary. But every other democracy acknowledges that ministers need people they can trust to carry out their agenda.

New Zealand alone denies this. Ministers must either accept chief executives appointed by someone else or operate through their own advisers, creating the parallel structures documented in Chapter 1. This is not a feature but a bug: New Zealand has relocated the staffing problem into ministerial offices, where it is less visible but no less real.

Akhtari, Moreira and Trucco studied Brazilian municipal education and found that politically driven turnover of school directors produced measurable declines in student performance.⁸⁷ When officials know they will be replaced for political reasons, institutional knowledge walks out. The German model protects career officials. New Zealand produces the same instability through a different route – the generic manager model treats institutional knowledge as dispensable.

Chapter 6: Answering the objections

Three objections to political appointment recur in New Zealand's public policy debate, and they deserve serious engagement. None of them, properly understood, constitutes a fatal objection to reform.

Objection 1: Political appointments destroy free and frank advice

The argument runs as follows: if the chief executive is appointed by the minister, the chief executive will become a mere instrument of the minister. The chief executive will tell the minister what the minister wants to hear rather than what the official's professional judgment suggests is right. The candour that underpins good governance will collapse. Officials will become afraid to dissent.

This objection misunderstands both systems.

New Zealand's system does not produce free and frank advice. The physical separation, information filtering, performance incentives and diffused accountability all undermine candour. Burton's analysis shows that what reaches ministers has already been shaped by the bureaucratic system.⁸⁸ The system does not protect candidness. It compromises it.

The German model protects free and frank advice by separating roles. The political tier, appointed by and answerable to the minister, openly advocates for the government's agenda. The career service knows this. And the career service is protected by statute and by the duty to object.

The duty to object is the key. It is a duty relating specifically to legality, with defined escalation steps and a hard floor where human dignity or criminal law is at stake. Career officials cannot be dismissed for exercising this duty.⁸⁹ The result is that the career service has genuine protection. The political tier and the career service know the boundary between them. Trust can be built within that framework.

Contrast this with New Zealand, where the boundary is undefined. The chief executive is accountable to the Commissioner, not the minister. But the Commissioner does not set the government's agenda. The result is that neither tier has clarity about what is expected. The minister expects implementation. The chief executive expects deference to the Commissioner's vision of a unified public service. Neither side trusts the other because the accountability line is murky.

The German model protects legality more effectively than New Zealand's aspirational approach because it uses law rather than hope. Career officials know they cannot be punished for raising legality concerns. Ministers know the scope of what they can ask officials to do. The result is that both sides can be candid within understood boundaries.

Objection 2: Political appointments lead to cronyism

The second objection asserts that allowing ministers to appoint chief executives will result in a patronage system where loyalty matters more than competence. Relatives and party operatives will staff the bureaucracy. The best candidates will be passed over in favour of political friends. The quality of government will collapse.

This objection is visceral and rational: it describes a genuine risk.

Despite appointing between 100 and 160 political civil servants at the federal level, depending on how broadly the category is defined, multiple mechanisms prevent cronyism.

Administrative courts can review the lawfulness of senior appointments.⁹⁰ A passed-over candidate can challenge an appointment lacking merit. Judges have invalidated appointments where the chosen candidate lacked clear superiority in competence.⁹¹ The threat of judicial review shapes behaviour. A minister knows the appointment must be defensible on competence as well as political alignment. The threat is real. It narrows the pool.

Krause, Lewis and Douglas studied American state governments and found that best performance comes from “organisational balancing”: political executives with merit-selected subordinates.⁹² Their finding confirms the hybrid model. Toral’s research on Brazilian municipalities confirms it from another angle: political appointments enhance accountability when properly structured.⁹³ The evidence shows political appointment with safeguards outperforms both alternatives.

The Federal Constitutional Court struck down an attempt to extend political civil servant status to operational police commanders.⁹⁴ Constitutional law, not good faith, prevents patronage creep.

Appointments are published and debated in the Bundestag.⁹⁵ Visibility imposes accountability.

Only around 150 federal posts are subject to political appointment. A minister might appoint one or two per ministry. Everyone else is career civil service. The constraint is structural.

Selecting the best-qualified person within a politically aligned pool is enforceable through law. Merit and politics both matter; statute defines the balance.

New Zealand’s system offers no public contestability, parliamentary scrutiny or legal challenge. The Commissioner appoints in opacity. The merit principle is asserted but not enforced. Patronage has moved from ministers to the Commissioner: less visible, not less real.

A reformed system with German safeguards would be more transparent, accountable and meritocratic than the status quo. Cronyism is a risk to be managed, not a reason to prevent reform.

Objection 3: It will politicise the public service

The third objection asserts that political appointment of chief executives will politicise the entire bureaucracy, destroying the impartial civil service and turning government into an instrument of party.

This objection misunderstands what politicisation means. The public service is already politicised. The question is whether that politicisation is admitted or concealed.

As Chapter 1 documented, Eichbaum and Shaw have shown that functional politicisation already “bubbles up from within departments and agencies.”⁹⁶ The consequences are visible: ministerial offices that expand beyond reason, advisers who become shadow executives, parallel chains of command and eroding trust between minister and chief executive. Pretending the apex is apolitical does not prevent politicisation. It drives it underground, where it is less accountable.

A caveat is necessary. Eichbaum and Shaw’s earlier work found the risk to civil service neutrality from political advisers “is not as great as is sometimes alleged.”⁹⁷ That finding was based on surveys conducted during a period of relative institutional stability. Their own later work significantly qualifies the optimism. Professional norms work until they do not. The question is not whether the system functions adequately under normal conditions but whether it has adequate safeguards when pressure intensifies. Australia’s experience answers that question.

Sam Freedman's analysis of the Francis Maude reforms shows what happens without guardrails.⁹⁸ Permanent secretary tenure collapsed from 6.8 years to 2.4. Officials became fearful. Performance deteriorated. Political control without architecture produces dysfunction.

Peter Aucoin calls New Zealand "best positioned" among Westminster systems to cope with politicisation risks.⁹⁹ But that is comparative: best positioned relative to worse alternatives. His cure addresses only appointments, not the compliance culture that allows unlawful policies. The duty to object addresses what Aucoin left unsolved.

Grube and Howard argue Westminster conventions are reinterpreted by each generation.¹⁰⁰ That is the vulnerability. Conventions hollowed out become useless. Robodebt proved it. The German model uses law, not convention.

Objection 4: Outsiders from the private sector can substitute for institutional knowledge

A fourth objection treats management as a transferable skill: a capable private-sector executive can run any government department. The theory was tested in New Zealand's hospitals in 1993. The hospitals declined.

Crown Health Enterprises in 1993 recruited business executives. Turnover was rapid within two or three years.¹⁰¹ They understood business. They did not understand that running a hospital differs fundamentally from running a retail chain: different constraints, stakeholders, accountability and consequences.

Denmark appointed outsiders in the 1980s. They performed poorly and were removed.¹⁰² Institutional knowledge is not a luxury. It is essential.

The German system requires career civil servants in senior positions. They understand the system because they have spent careers inside it. The career path principle is quality assurance.

Structural stability does not mean policy rigidity. Germany has managed reunification, European integration, energy transitions and migration crises without dismantling its administrative structure. Institutional stability and policy flexibility are complements.¹⁰³

Chapter 7: Making it work in New Zealand

New Zealand should move toward the German model, not by importing German institutions wholesale but by translating the underlying principles into the New Zealand constitutional context.

Those principles, as the preceding chapters have argued, are threefold: political alignment at the apex, so that ministers have people at the top of departments who are committed to the government's programme; statutory protection of the career service below, so that reform strengthens rather than destroys genuine neutrality; and a duty to object that connects the two tiers, giving career officials the legal obligation and protection to raise legality concerns. The dual-tier structure of State Secretaries and career officials is how Germany achieves these principles within its specific constitutional architecture. New Zealand needs the principles. It does not need to replicate the architecture in one step.

The state sector reforms of 1988 shifted chief executives to fixed-term contracts. This was meant to increase accountability but instead increased dependence on the Commissioner. A reformed system can use fixed-term contracts as the tool for political control while adding the German-style protections beneath.

Three variants deserve consideration. This report recommends a staged approach: Variant B – minister-appointed chief executives with statutory protections – as the immediate reform, with Variant A – a dedicated State Secretary layer in major departments – as the mature form of the system once the institutional foundations are established. The staging matters. Variant B gives ministers the appointment power they currently lack and establishes the duty to object as working practice. Variant A builds on that foundation by separating the political translation function from operational management in departments large and complex enough to justify it. Both variants, and Variant C as a more conservative alternative, are preferable to the status quo provided they incorporate the shared design elements that prevent the pathologies of the American system.

Three possible variants

Variant A: A State Secretary layer. This would introduce State Secretaries as a tier between the minister and the chief executive, appointed by the minister and serving at the minister's pleasure. The chief executive would remain in place, managing operational delivery. The State Secretary would handle the translation function that the German analysis identifies as central: converting ministerial priorities into administratively feasible programmes, managing the department's executive office, driving policy delivery and ensuring the department executes the government's programme.

This is the most faithful translation of the German model. It preserves the separation between political direction and operational management that Chapter 3 identified as one reason Germany's system works. In New Zealand's larger departments – MBIE, MSD, Health, Education, departments with thousands of staff and sprawling policy portfolios – the scale and complexity of the work genuinely justifies a dedicated political-operational interface. A minister responsible for a department of several thousand people, spanning multiple policy domains, cannot realistically expect a single chief executive to perform both the political alignment function and the operational management function to a high standard. The German system recognised this decades ago.

The cost is that Variant A requires a working relationship between State Secretary and chief executive that has no precedent in New Zealand. Germany's dual tier functions because it has been refined over decades. Both roles understand their boundaries. In New Zealand, importing the structure cold risks

creating a central management problem within each department: two senior officials whose respective authority is undefined by practice, even if statute draws the line. This is not an argument against the design. It is an argument about sequencing.

Variant B: Minister-appointed chief executives with statutory protections. The minister would appoint the chief executive from a qualified pool. The chief executive would serve a fixed term, renewable once, and could be removed by the minister for specified grounds including non-performance or policy misalignment after defined consultation. Return rights would be guaranteed: removal would not mean dismissal from the public service. A demoted chief executive would have the right to revert to a lower classified position within the career service.

Variant B creates the clearest immediate alignment between minister and departmental leadership. The minister appoints. The chief executive answers to the minister. The accountability line is direct, visible and enforceable. Under this variant, the chief executive performs both the political alignment and the operational management role. In smaller departments, this is straightforward – the scale does not demand a dedicated interface between the two functions. In larger departments, it asks more of one person, but it gives ministers something they currently lack entirely: a chief executive who is committed to their programme and accountable to them for delivery.

The cost is that chief executives appointed by the previous government may be removed by their successors, creating potential instability. The deeper cost, acknowledged honestly, is that Variant B does not fully realise the translation function the German analysis identifies. A chief executive who must simultaneously advocate for the minister's agenda and manage operational delivery may find the two roles in tension – particularly in large, complex departments where the operational demands are relentless.

Variant C: Secondment model. The minister would select a chief executive or State Secretary from the career service, seconding them into a politically accountable role for the duration of the government or a fixed term. When the government changes or the term ends, they would revert to the career service at a comparable level. The benefit is career continuity and a smooth return mechanism. The cost is ambiguity about whether the official is political or permanent, which risks reproducing the very confusion the reform is meant to resolve.

This report recommends Variant B as the first phase of reform and Variant A as the destination for departments of sufficient scale. The logic is sequential. Variant B addresses the most urgent problem: ministers who are accountable for departments they cannot control. It gives ministers appointment power, establishes the duty to object as operating practice, and builds the institutional culture that a State Secretary layer will eventually require. Variant A then builds on that foundation, introducing a dedicated translation function in major departments once both ministers and officials have experience operating within the new accountability framework.

The threshold for moving from Variant B to Variant A should be defined by departmental scale and portfolio complexity rather than by a fixed timetable. Departments with several thousand staff and multiple policy domains – the MBIes and MSDs of the system – are the natural candidates. Smaller departments, where a single chief executive can realistically bridge both the political and operational functions, may remain permanently under Variant B. The result would be a differentiated system, calibrated to the actual demands of each department rather than imposing a uniform structure regardless of scale.

The choice between variants is secondary to ensuring that whichever is chosen incorporates the shared design elements described below. But the staging matters. Variant B without a pathway to

Variant A risks becoming a permanent compromise that captures the appointment power but never achieves the institutional architecture that makes Germany's system work. Variant A without first establishing Variant B risks importing a sophisticated structure into a system that has no institutional experience to support it.

Shared design elements across all variants

All variants require five shared design elements. First, Parliament should statutorily define which posts are political, designating only the chief executive equivalent, one or two deputies in large delivery departments, and certain policy heads where implementation hinges directly on ministerial priorities. The total number should be small and published.

Second, qualification requirements should govern entry to political posts. A person cannot be appointed without demonstrated competence in the relevant policy area. This prevents unqualified loyalists and forces selection within a capable pool.

Third, the career service beneath the political tier should be protected by statute: career officials secure against arbitrary removal, superannuation rights secure, promotion merit-based.

Fourth, a statutory duty to object should require officials to raise legality and propriety concerns with defined escalation and protection against reprisal. The mechanism should be documented so both minister and official know the boundary.

Fifth, transparency should require publication of all political appointments with names, qualifications, dates and responsible minister as public record. The Auditor General should review whether appointment criteria were met and parliamentary committees should inquire into appointments.

The boundary of politicisation: who should not be political

Some posts should never be political, however the system is reformed. Independent Officers of Parliament, like the Auditor General, the Ombudsman and the Electoral Commissioner, should remain independent of ministerial control. Quasi-judicial officials like judges and tribunal members should be insulated from politics. Statutory regulators with independence mandates, like financial regulators or competition authorities, should keep their independence. The reason is not that these officials should be immune to political direction. It is that their authority depends on perceived independence. A financial regulator that the minister can remove at will loses credibility. An electoral commissioner appointed by the government lacks legitimacy. The independence is not for the officials. It is for the integrity of the institutions.

The legislation should specify which posts remain beyond political appointment and why. The boundary matters. It distinguishes genuine political control of the executive from the totalising control of an autocracy.

Portfolio alignment

The system cannot work if portfolios remain fragmented. A minister who nominally heads a department that reports to twenty different ministers cannot be held accountable for what the department does. The minister cannot set coherent priorities. The department cannot align its resources accordingly. Portfolio fragmentation has to be addressed.

Roger Partridge's recent report *Unscrambling Government* documents this problem in detail and proposes solutions.¹⁰⁴ Portfolios should be consolidated so that each department reports to a limited number of ministers. That number should be defined by subject matter logic, not by accident of history. The ministry should be aligned with the minister. If the architecture is not fixed, political appointment of chief executives will not solve the problem. A minister will still be unable to control a department that serves multiple masters.

Multiple governments and coalition

A concern arises about consistency across government changes. If the incoming government replaces the chief executives appointed by the previous government, does this create instability? Does it mean that each government wipes the slate clean, destroying institutional memory and restarting programmes constantly?

This is a legitimate concern, but comparative evidence suggests it is manageable. Germany manages this routinely. Coalition governments in Germany regularly see Ministers from different parties, yet the machinery of government continues to function. The reason is that the political tier is small. Only around 100 federal positions change. Everyone else remains in place. The career service continues. Programmes continue. The new minister appoints new political officials to manage political direction, but the underlying department endures.

Derlien's empirical research on government transitions confirms this. After a change of government, the vast majority of political civil servant positions are filled by career civil servants who were already serving in the system, not by outsiders.¹⁰⁵ The transition is a rotation within the senior career service, not a wholesale replacement of expertise with political operatives. Institutional memory is preserved because the people filling the political tier have spent their careers building that memory.

In New Zealand, if the political tier is clearly defined and small, a government change would see perhaps a dozen or two dozen replacements across a department structure of thousands. The bulk of the workforce remains. The memory remains. The continuity remains. The change in political direction becomes manageable.

The risk arises if too many positions are designated as political. If a minister could remove most senior officials, each government change would produce a purge. The safeguard is to keep the political tier small and precisely defined.

Scope of application

The reforms should apply to departments and departmental agencies. State-owned enterprises, Crown entities and independent authorities should be excluded. These organisations serve different functions and have different constitutional relationships to ministers. The focus should be on the core machinery of government: the departments that deliver government services and implement government policy.

Sequencing the reform

The reform should proceed in three phases.

In the first phase, legislation would give ministers the power to appoint chief executives from a qualified pool, establish the statutory duty to object with defined escalation steps and protection against reprisal, protect the career service beneath the political tier, and require publication of all political appointments. This is Variant B. It addresses the democratic deficit immediately and establishes the institutional foundations – particularly the duty to object – that the mature system requires.

The second phase, beginning after one full parliamentary term of operation under Variant B, would introduce the State Secretary function in departments above a defined threshold of size and portfolio complexity. The threshold should be set by statute rather than ministerial discretion. A department with more than a specified number of staff, or responsibility for more than a specified number of appropriations, would be required to have a State Secretary appointed by the minister, with the chief executive reverting to an operational role. This is Variant A, applied where scale justifies it.

The third phase would be review and adjustment. After a further parliamentary term, an independent review should assess whether the State Secretary function is operating as intended, whether the duty to object has become effective practice, and whether the boundary between the political tier and the career service is holding. The review should consider whether additional departments should adopt the State Secretary model and whether any design adjustments are needed.

Staging the reform this way answers the most serious objection to importing the German model: that New Zealand lacks the institutional culture to support it. The culture does not need to exist before the reform. It needs to be built by the reform and built in the right sequence. Appointment power first. The duty to object alongside it. The translation function once the system has learned to operate within the new accountability framework.

Conclusion

The constitutional bargain is straightforward: ministers are accountable to Parliament and possess the authority to carry out that accountability. New Zealand's institutional design contradicts this. The Cabinet Manual sets out the principles – neutrality, free and frank advice, faithful implementation. But the Commissioner appoints all chief executives. Ministers cannot remove them or select their deputies. The machinery of government, structured after 1988 to insulate the bureaucracy, makes ministers accountable in name only.

New Zealand has eight senior officials per minister. The United States has 531; Germany 106; Sweden 19. This exceptionalism is a flaw: democracy requires responsive bureaucracies.

The Noll framework explains how institutional design makes implementation resistance rational: procedural delay, reinterpretation and risk flagging require no open defiance yet systematically obstruct. When the Commissioner's expectations run counter to the minister's agenda, officials choose the Commissioner.

The German model offers an alternative built on three principles: political alignment at the apex, statutory protection of the career service below, and a duty to object that connects the two. Germany expresses these principles through a dual tier of political State Secretaries and career officials. New Zealand need not replicate the architecture in one step, but it must achieve the same functional outcome.

This report recommends a staged reform. The first phase gives ministers the power to appoint their chief executives from a qualified pool, establishes a statutory duty to object with defined escalation and protection against reprisal, and protects the career service by statute. This addresses the democratic deficit immediately. The second phase, once the institutional foundations are established, introduces a dedicated State Secretary function in departments whose scale and complexity justify separating political direction from operational management. The staging is not timidity. It is the sequence that builds the institutional culture the mature system requires.

Recent policy failures – KiwiBuild, Light Rail, Three Waters – passed through government without rigorous challenge. The system lacked a structural mechanism to test feasibility before implementation and a duty to object that would force legality concerns into the open. Australia's Robodebt showed the cost of appointment power without supporting infrastructure: qualification requirements, transparent appointments, the duty to object. Without these, dissent is punished. With them, dissent is required.

The stakes are simple. If elected governments cannot choose who runs the bureaucracy on their behalf, democracy is diminished.

Endnotes

- 1 Public Service Act 2020 (NZ), Part 4. URL: <https://www.legislation.govt.nz/act/public/2020/0040/latest/LMS356868.html>
- 2 These terms appear throughout the administrative law literature. See generally Noll (2022) and Burton (2024).
- 3 David L. Noll, "Administrative Sabotage," *Michigan Law Review* 120, no. 5 (2022): 753–819. DOI: 10.36644/mlr.120.5.administrative. URL: <https://repository.law.umich.edu/mlr/vol120/iss5/2/>
- 4 Cabinet Manual 2023, Chapter 3, sections on coalition management and the role of procedural constraint in policy delivery.
- 5 Cabinet Manual 2023, Chapter 3. URL: <https://www.dPMC.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/3-ministers-crown-and-public-sector/ministers-and-public-service>
- 6 Public Service Act 2020 (NZ), s. 12 (public service principles, including political neutrality and free and frank advice). See also Cabinet Manual 2023, Chapter 3.
- 7 See Chapter 3 for detailed analysis of the German model.
- 8 Public Service Act 1999 (Cth), ss. 58-59. URL: <https://www.legislation.gov.au/C2004A00538/latest>
- 9 This reference is to the fragmentation of New Zealand's ministerial portfolios, discussed in detail in Chapter 1.
- 10 Based on accounts from participants in the 2023–2025 government. The nature of bureaucratic resistance is that it leaves no paper trail marked "obstruction." The evidence is structural and inferential rather than documentary, for reasons the text explains.
- 11 Public Service Act 2020 (NZ), Schedule 7, clause 3 (appointment of chief executives).
- 12 Public Service Act 2020 (NZ), s. 56 (term limits) and s. 58 (which does not grant removal power to ministers).
- 13 Ministerial offices are located in Parliament House (the Beehive). Departmental offices are housed in separate buildings across the greater Wellington area.
- 14 Analysis of ministerial portfolio allocation as of 2025. The Ministry of Business, Innovation and Employment reports to ministers across economic development, research, science and innovation, employment, small business, construction, housing and other portfolios depending on the government's allocation.
- 15 European Parliament, Directorate General for Internal Policies, Policy Department for Citizens' Rights and Constitutional Affairs, "Political Staffing of the Executive: Comparative Study," Study ET(2004)360482 (2004). This study compared senior official staffing ratios across OECD democracies and found New Zealand at the lower end of the range.
- 16 On the generic manager model and the resulting erosion of deep policy expertise, see the discussion in the text and the comparative evidence in Derlien and Rouban (2009).
- 17 Ministerial adviser numbers have grown significantly since 2017. The State Services Commission has documented this trend.
- 18 Performance contracts between ministers and chief executives are notionally designed to establish clear expectations and measure delivery. Burton's analysis in *Demystifying the State* shows how the performance management system, as currently designed, incentivises the appearance of success rather than genuine accountability.
- 19 Tony Burton, *Demystifying the State* (Wellington: The New Zealand Initiative, 2024). Burton's analysis of information filtering through bureaucratic hierarchy is central to understanding how the system prevents honest communication between ministers and departments.
- 20 Cabinet Manual 2023, Chapter 3.
- 21 Noll (2022), discussed in detail at pages 753-819 of the Michigan Law Review article cited in note 3.
- 22 Chris Eichbaum and Richard Shaw, "Bubbling up or cascading down? Public servants, political advisers and politicization," *Public Administration* 98, no. 4 (2020): 840–855. DOI: 10.1111/padm.12659. See also Chris Eichbaum and Richard Shaw, "Revisiting Politicization: Political Advisers and Public Servants in Westminster Systems," *Governance* 21, no. 3 (2008): 337–363. DOI: 10.1111/j.1468-0491.2008.00403.x.
- 23 Eichbaum and Shaw (2020), 845.
- 24 Public Service Act 2020 (NZ), Schedule 7, clause 3, which vests appointment authority in the Commissioner.
- 25 Public Service Act 2020 (NZ), s. 56.
- 26 Public Service Act 2020 (NZ), Schedule 7, clauses 3 and 8.
- 27 Burton (2024).

- ²⁸ The generic manager model assumes management skills are transferable across sectoral contexts. For a critique, see Allen Schick, *The Spirit of Reform* (Wellington: State Services Commission, 1996).
- ²⁹ Ministers' offices are in the Beehive. Departmental headquarters are elsewhere in Wellington.
- ³⁰ This figure comes from the State Services Commission analysis of ministerial portfolios and departmental structure as of 2025.
- ³¹ Treasury Independent Rapid Review, "Review of the Ministry of Business, Innovation and Employment" (April 2024). The review found that MBIE administers 233 separate appropriations across 23 ministerial portfolios.
- ³² Roger Partridge, *Unscrambling Government: Less Confusion, More Efficiency* (Wellington: The New Zealand Initiative, 2025). URL: <https://www.nzinitiative.org.nz/reports-and-media/reports/unscrambling-government-less-confusion-more-efficiency/>
- ³³ European Parliament (2004), Study ET(2004)360482.
- ³⁴ Public Service Act 1912, which established the modern New Zealand civil service on merit-based principles.
- ³⁵ Hans-Ulrich Derlien and B. Guy Peters, eds., *The State at Work, Volume 2: Comparative Public Service Systems* (Cheltenham: Edward Elgar, 2009). See the comparative analysis of recruitment and career systems across OECD countries.
- ³⁶ The fourth Labour government (1984-1990) under David Lange and the subsequent National governments undertook extensive machinery of government reforms from the mid-1980s onwards.
- ³⁷ Robert Gregory, "Breaking Sharply with the Past: Government Employment in New Zealand," in Hans-Ulrich Derlien and B. Guy Peters, eds., *The State at Work, Volume 1: Public Sector Employment in Ten Western Countries* (Cheltenham: Edward Elgar, 2009), 40-75.
- ³⁸ State Sector Act 1988 (NZ). URL: <https://www.legislation.govt.nz/act/public/1988/0020/latest/whole.html>
- ³⁹ Allen Schick, *The Spirit of Reform* (Wellington: State Services Commission, 1996).
- ⁴⁰ Hans-Ulrich Derlien and Luc Rouban, "Societal Links and Social Differentiation," in *The State at Work, Volume 2* (2009), 146-191.
- ⁴¹ Public Service Act 2020 (NZ), ss. 45-46.
- ⁴² This language appears in the official description of the Public Service Act 2020 and its purposes, as set out in the Long Title and explanatory notes to the Bill.
- ⁴³ Burton (2024).
- ⁴⁴ Burton (2024).
- ⁴⁵ This term is used to describe reform that occurs at the level of the governance system itself rather than at the level of individual policy or programmes.
- ⁴⁶ Public Service Amendment Bill 190-2 (2025). URL: <https://www.legislation.govt.nz/bill/government/2025/0190/latest/whole.html>
- ⁴⁷ *Grundgesetz* (Basic Law of the Federal Republic of Germany), Article 65. URL: https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html
- ⁴⁸ Bundestag parliamentary research identifies the role of *Parlamentarische Staatssekretäre* in the German system. They are Members of the Bundestag who take on this role whilst retaining their parliamentary seat.
- ⁴⁹ The *beamtete Staatssekretäre* or civil service State Secretary is the senior official who runs the internal machinery of the ministry.
- ⁵⁰ *Bundesbeamtengesetz* (Federal Civil Service Act), §54 (temporary retirement). URL: https://www.gesetze-im-internet.de/bbg_2009/_54.html
- ⁵¹ The concept of the "transformation function" (*Transformationsfunktion*) appears in Bundestag research literature on political civil servants, describing the role of translating political direction into administrative action.
- ⁵² German civil servants with *Beamte* status have extraordinarily strong employment protection, with dismissal possible only in very limited circumstances (such as loss of citizenship or serious criminal conduct).
- ⁵³ *Bundesbeamtengesetz* §63 (*Remonstrationspflicht*). URL: https://www.gesetze-im-internet.de/bbg_2009/_63.html
- ⁵⁴ §63 of the Federal Civil Service Act provides that officials bear personal responsibility for the lawfulness of their actions and must escalate concerns about legality through the hierarchy, with a hard floor applying where orders would violate human dignity, constitute a criminal offence, or be otherwise recognisably punishable.
- ⁵⁵ The Bundespolizei pushback against Interior Minister Seehofer's 2018 *Masterplan Migration* border directives is documented in Maximilian Pichl, "Remonstrations an der Grenze," *Verfassungsblog*, 2018. URL: <https://verfassungsblog.de/remonstrations-an-der-grenze/>

- ⁵⁶ Bundestag, Wissenschaftliche Dienste, “Politische *Beamte*” (2007), WD 6-3000-149/07. This Bundestag research document provides detailed analysis of the number and scope of political civil service positions in the German system. The approximately 100 figure uses the narrower statutory designation under §54 BBG; Derlien's empirical count of positions actually subject to the temporary retirement mechanism is higher, at roughly 147 federal positions. Werner Jann gives approximately 160 (see Jann and Veit 2021, 145–161).
- ⁵⁷ The roles typically designated as political civil service positions include State Secretaries (federal level), Directors-General (*Ministerialdirektoren*), ambassadors, intelligence service heads and the Federal Prosecutor General, though some variation exists across the federation and the *Länder* states.
- ⁵⁸ Hans-Ulrich Derlien, “The German Public Service: Between Tradition and Transformation,” in Derlien and Peters, eds., *The State at Work, Volume 1* (2009), 170-209. Derlien's empirical work on government transitions, drawing on data published in *Governance* (1988) and the *European Journal of Political Research* (1990), provides the most authoritative count of positions subject to the temporary retirement mechanism. See also Hans-Ulrich Derlien, “Mandarins or Managers? The Bureaucratic Elite in Bonn, 1970 to 1987 and Beyond,” *Governance* 16, no. 3 (2003): 401–428. DOI: 10.1111/1468-0491.00222.
- ⁵⁹ Derlien (2009), 170-209. The finding that approximately ten per cent of vacancies are filled by outsiders from universities, industry or interest groups comes from Derlien's analysis of multiple government transitions from 1969 onwards. See also Hans-Ulrich Derlien, “Continuity and change in the West German federal executive elite 1949–1984,” *European Journal of Political Research* 18, no. 3 (1990): 349–372. DOI: 10.1111/j.1475-6765.1990.tb00237.x.
- ⁶⁰ Sylvia Veit and Stefanie Vedder, “Measuring civil service politicization with career data: Backstage and frontstage political experience of top civil servants in the German ministerial administration,” *Public Administration* 102, no. 3 (2023): 1119–1136. DOI: 10.1111/padm.12967.
- ⁶¹ Sylvia Veit and Simon Scholz, “Linking administrative career patterns and politicization: signalling effects in the careers of top civil servants in Germany,” *International Review of Administrative Sciences* 82, no. 3 (2016): 516–535. DOI: 10.1177/0020852314564310.
- ⁶² *Laufbahnprinzip* (career path principle) is a foundational element of German civil service law, requiring that officials progress through defined career paths with formal qualifications.
- ⁶³ This is the key distinction in the German approach: the principle of selecting the best-qualified person (*Bestenauslese*) applies even to political appointments, but the pool is constrained by the requirement of political alignment.
- ⁶⁴ German administrative courts (*Verwaltungsgerichte*) have jurisdiction to review the legality of senior civil service appointments, including challenges to political appointments on grounds of failure to meet merit requirements.
- ⁶⁵ BVerfG, Beschluss des Zweiten Senats vom 23. April 2024, 2 BvL 2/22. The Federal Constitutional Court struck down the classification of police presidents in North Rhine-Westphalia as *politische Beamte*, establishing the “bridgehead” (*Brückenkopf*) and “innermost circle” (*innerster Kreis*) tests for determining which positions may be designated as political civil service posts.
- ⁶⁶ Appointments to political civil service posts are published and subject to parliamentary scrutiny, providing transparency and accountability.
- ⁶⁷ Bundestag (2007), emphasising that the merit principle (*Bestenauslese*) is not suspended for political civil servants but applies within the constraints of political alignment.
- ⁶⁸ This argument appears in Bundestag research and in the academic literature on German civil service reform, particularly in Werner Jann and Sylvia Veit, “Politics and Administration,” in Kuhlmann et al., eds., *Public Administration in Germany* (Cham: Palgrave Macmillan, 2021), 145–161. DOI: 10.1007/978-3-030-53697-8_10.
- ⁶⁹ Eichbaum and Shaw (2020); Eichbaum and Shaw (2008). See note 22.
- ⁷⁰ Sam Freedman, *Failed State: Why Nothing Works and How We Fix It* (London: Macmillan, 2024). Freedman documents the effects of the Francis Maude reforms on UK civil service tenure and morale.
- ⁷¹ Public Service Act 1999 (Cth), ss. 58-59, under which the Governor-General appoints and may terminate department secretaries on the Prime Minister's recommendation.
- ⁷² Thodey Review, “Our Public Service, Our Future” (2019). URL: <https://www.pmc.gov.au/sites/default/files/resource/download/independent-review-aps.pdf>
- ⁷³ Royal Commission into the Robodebt Scheme, Final Report (2023). URL: <https://robodebt.royalcommission.gov.au/publications/report>
- ⁷⁴ Commissioner Catherine Holmes' findings in the Robodebt Royal Commission emphasised the extent to which officials had lost sight of fundamental principles of administrative law and had become complicit in an unlawful scheme.

- ⁷⁵ Royal Commission into the Robodebt Scheme, Final Report (2023). The finding of “over-responsiveness” to ministers describes a culture in which officials prioritised pleasing political masters over testing the legality of the programmes they were asked to administer.
- ⁷⁶ Paul Henman, “Robodebt cultures and useful idiots: Why Robodebt was not a techno-failure,” *Australian Journal of Social Issues* 60, no. 1 (2025): 4–20. DOI: 10.1002/ajs4.383.
- ⁷⁷ Jacob Priergaard, “Not my debt: The institutional origins of Robodebt,” *Australian Journal of Public Administration* 84, no. 1 (2024): 142–158. DOI: 10.1111/1467-8500.12658.
- ⁷⁸ *Comcare v Banerji* [2019] HCA 23. The High Court of Australia upheld the termination of a public servant who had anonymously criticised government policy on social media outside working hours, holding that the implied freedom of political communication did not override the public service code of conduct.
- ⁷⁹ KiwiBuild was announced in 2018 with a target of 100,000 affordable homes over ten years. By mid-2019, fewer than 300 had been delivered. The programme was restructured and its targets effectively abandoned.
- ⁸⁰ Auckland Light Rail was first proposed in 2017. After years of competing proposals, governance changes and consultancy expenditure, the incoming government in 2023 cancelled the project without a metre of track having been laid.
- ⁸¹ Three Waters, formally the Water Services Entities Act 2022, proposed merging local council water infrastructure into four (later ten) regional entities. The incoming government repealed the legislation in 2024 following sustained local government and public opposition.
- ⁸² Te Pukenga, established in 2020 as a merger of New Zealand’s sixteen polytechnics and institutes of technology into a single entity, was announced for disestablishment in 2024 after widespread dysfunction in governance and delivery.
- ⁸³ Roger Partridge, *Unscrambling Government: Less Confusion, More Efficiency* (Wellington: The New Zealand Initiative, 2025). The report documents how portfolio fragmentation undermines ministerial accountability.
- ⁸⁴ The Plum Book (officially “Policy and Supporting Positions”) is the United States Government publication listing positions available for appointment by the President. The current edition identifies approximately 9,000 positions.
- ⁸⁵ Noll (2022), documenting the tools of administrative sabotage including budget manipulation, non-enforcement, hostile interpretation and personnel selection.
- ⁸⁶ European Parliament (2004), Study ET(2004)360482.
- ⁸⁷ Masyhur Hilmy Akhtari, Diana Moreira and Laura Trucco, “Political Turnover, Bureaucratic Turnover, and the Quality of Public Services,” *American Economic Review* 112, no. 2 (2022): 442–493. DOI: 10.1257/aer.20171867.
- ⁸⁸ Burton (2024), analysing information filtering through bureaucratic hierarchy.
- ⁸⁹ *Bundesbeamten-gesetz* §63, which provides statutory protection against reprisal for exercising the remonstrance duty.
- ⁹⁰ German administrative courts can review the legality of senior appointments, including whether merit requirements were met.
- ⁹¹ Jurisprudence on the merit principle (*Bestenauslese*) in German administrative law is well established, with successful challenges to appointments where candidates lacked clear superiority in qualifications.
- ⁹² George Krause, David E. Lewis and James W. Douglas, “Political Appointments, Civil Service Systems, and Bureaucratic Competence: Organizational Balancing and Executive Branch Revenue Forecasts in the American States,” *American Journal of Political Science* 50, no. 3 (2006): 770–787. DOI: 10.1111/j.1540-5907.2006.00215.x.
- ⁹³ Guillermo Toral, “How Patronage Delivers: Political Appointments, Bureaucratic Accountability, and Service Delivery in Brazil,” *American Journal of Political Science* 68, no. 2 (2023): 797–815. DOI: 10.1111/ajps.12758.
- ⁹⁴ BVerfG, 2 BvL 2/22 (2024). See note 63.
- ⁹⁵ Appointments to political civil service posts are published and subject to parliamentary debate and media scrutiny.
- ⁹⁶ Eichbaum and Shaw (2020), 845. See note 22.
- ⁹⁷ Eichbaum and Shaw (2008), 350–355.
- ⁹⁸ Freedman (2024).
- ⁹⁹ Peter Aucoin, “New Political Governance in Westminster Systems: Impartial Public Administration and Management Performance at Risk,” *Governance* 25, no. 2 (2012): 177–199. DOI: 10.1111/j.1468-0491.2012.01569.x.
- ¹⁰⁰ Dennis C. Grube and Cosmo Howard, “Is the Westminster System Broken Beyond Repair?” *Governance* 29, no. 4 (2016): 467–481. DOI: 10.1111/gove.12230.

- ¹⁰¹ Derlien and Rouban (2009), 146-191. The Crown Health Enterprises example appears in their comparative analysis of lateral entry and outsider performance in public sector leadership roles.
- ¹⁰² Derlien and Rouban (2009). The Danish experience with outsider appointments in the 1980s is cited as a parallel case of private-sector executives failing to adapt to the constraints of public sector leadership.
- ¹⁰³ Derlien and Rouban (2009), distinguishing between structural conservatism of the civil service and policy conservatism, and arguing that the formal structure of the inherited public service system can remain stable while the policies it implements change radically.
- ¹⁰⁴ Partridge (2025).
- ¹⁰⁵ Derlien (2009), 170-209. See notes [58] and [59].

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