

**Ministry of Foreign Affairs & Trade Investigation
Statement by Mr Neil Walter**

INTRODUCTION

Counsel for Mr Derek Leask, formerly New Zealand's High Commissioner to the United Kingdom and Northern Ireland, has sought my views on the Ministry of Foreign Affairs and Trade's practice and conventions on communications by its officers with Ministers, other government agencies and their families.

I am not privy to the communications that have prompted this request, but it is my understanding that they have to do with proposed changes in the Ministry's administrative policies rather than matters that could damage New Zealand's foreign relations or national security.

I give the views below on the basis of my employment as an officer of the Ministry from 1965 to 2002. My experience included three Ambassador level appointments (London, Jakarta and Tokyo) and terms as Assistant Secretary (Corporate Services) 1987 - 90, Deputy Secretary (Political and Security) 1995 - 97 and Secretary of Foreign Affairs and Trade 1999 - 2002. My curriculum vitae is attached.

COMMUNICATIONS WITH MINISTERS

1. MFAT officers, by the nature of their work, spend a considerable amount of "face" time with Ministers. Ministers often want to be briefed in person about the foreign policy and trade issues confronting New Zealand and to discuss in detail the recommendations and options being put before them. In my experience they expect officials to engage with them in an open and robust manner. Ministers also of course work in close partnership with officials in the implementation of the government's agreed policies and strategies - for example at high level political meetings and conferences or as leader of a trade negotiating team.
2. Primarily MFAT officers deal with the Ministers of Foreign Affairs and Trade, but the same pattern of close involvement applies from time to time in respect of the Prime Minister and other Ministers in such areas as Economic Development and Finance (eg international economic issues and trade negotiations), Agriculture (trade and phytosanitary agreements), Defence (security and intelligence issues), Fisheries and Conservation (fisheries and whaling), Transport (civil aviation and shipping) and the Environment (international and regional environmental issues).
3. Senior Wellington-based MFAT officers often accompany Ministers on overseas trips for several days at a time. Heads of Mission at overseas posts also spend a lot of time with Ministers when they visit a country or organisation of accreditation. The working relationships tend to become even closer and more personal as objectives and strategies are developed, advocacy responsibilities allocated and action plans worked out and implemented. In other words, by general public service standards there are unusually high levels of formal and informal contact between MFAT officers and their primary Ministers.

4. In my time Ministers valued the expertise of MFAT officers and expected Ministry staff to give high quality and professional advice in a direct, open and robust manner. Quite often Ministers disregarded the formal lines of communication and would go direct to officers whose particular expertise they wished to draw on. In my time it was standard practice for officers to respond directly to Ministers, keeping their senior officers and other colleagues informed and consulted as appropriate where the officer judged that there was something new and important in what transpired.

5. Conversations between Ministry staff and Ministers during my time in the Ministry were not restricted to foreign and trade policy issues of the day. Often they took in such matters as the state of the bilateral or multilateral relationship, the situation and capacity of the overseas post, the conditions of service and morale of officers and their families - particularly in hardship posts or areas with a high danger factor - and how things were going generally in the Ministry. In other words, Ministers wanted to be kept up to speed not just on the foreign policy and trade issues of the day but on the welfare of staff and the ability of the overseas service and the Ministry to deliver on the government's objectives.

6. There was, throughout my time in the Ministry, a strong tradition of open and vigorous discussion and critical examination of issues impacting on New Zealand's external interests, whether those issues concerned foreign or trade policy matters or the Ministry's administrative policy settings. This took place around specific issues as well as in forums such as Programme coordination meetings, strategic planning sessions (which Ministers would occasionally attend), Division Directors' meetings and regular meetings of the Ministry's senior management team.

7. It was the expectation of Ministers that issues would be thoroughly debated within the Ministry before options and recommendations were formally put to them. Most significant issues were complex and had to be considered from a number of angles, both within the Ministry and around the inter-agency circuit. Ministry staff at all levels were encouraged to engage in these discussions in an open and forthright fashion. It was a matter of professional pride to officers that they should maintain the highest standards of both expert advice and policy implementation. This required them to consult widely both within the Ministry and with other agencies (and often with the private sector) before providing advice to Ministers.

8. The relationship between the Minister and Heads of Mission is unique in New Zealand's public service. All Ambassador, High Commissioner and Consul-General appointments are made by the Minister of Foreign Affairs under the Foreign Affairs Act. All Heads of Mission are furnished with a letter of appointment from the Minister of Foreign Affairs spelling out his or her - and the Minister of Overseas Trade's - expectations of the appointee. Heads of Mission were seen in my time as the Minister's eyes and ears in their area of accreditation. Among the expectations placed on them was that the Ministers of Foreign Affairs and Overseas Trade would be kept informed of any significant issues affecting the relationships or issues for which the Head of Mission was responsible. (This was generally referred to as the "no surprises" policy.) Traditionally MFAT officers have understood this rule of thumb to cover not just foreign and trade policy issues themselves

but also any factors that might adversely affect the ability of the overseas post or the Ministry to implement the government's policies.

9. In my time a number of reports from Heads of Mission were routinely copied to the Minister's office. Indeed, valedictory reports were usually addressed to the Minister and copied to relevant parts of the Ministry. It was left to the judgement of Heads of Mission to decide precisely when and how this direct channel of communication should be used. (Communications with Ministers of course took a variety of forms, ranging from casual conversations through group meetings and personal notes to formal reports.) A similar approach was taken in respect of direct communication with a Minister by Wellington-based officers. (My understanding is that, while the current State Services Code of Conduct is silent on the issue - ie it neither expressly allows nor disallows direct communication between a State servant and a Minister - provision is still made in the Ministry's Code of Conduct for employees to communicate directly with their Minister on matters affecting the Ministry provided that they keep the Chief Executive in the loop if the conversation or communication heads into significant new territory.)

10. Although there were occasions when, as Chief Executive, I would question a particular officer's judgement as to what issues should be taken up direct with the Minister (or be drawn to his or her attention), I took the view that this was a legitimate option for employees as well as, particularly in the case of Heads of Mission, a Ministerial expectation. The two important things to me, as Chief Executive, were that representations should not be made to the Minister behind the Ministry's back; and that this channel of communication should not be misused on trivial issues. I was fortunate to have primary Ministers who understood and respected the Chief Executive's responsibility for managing the Ministry and the overseas service.

COMMUNICATION WITH OTHER AGENCIES

11. Although the Ministry of Foreign Affairs and Trade has overarching responsibility for the conduct of New Zealand's foreign and trade policy, it has always been part of an "NZ Inc" interagency team, working closely with a wide range of departments and agencies with an interest in external policy issues. Officers of the Ministry were encouraged to develop close working relationships with their counterparts and key contacts in other agencies. Our foreign service has frequently been praised by other administrations not just for its professionalism and effectiveness but for its teamwork, agility and coordination.

12. The tradition I referred to earlier of open and challenging debate and strong communication applies around the interagency circuit as well as within the Ministry. Debate and exchanges with other agencies were never in my time restricted to the issues themselves. Inevitably they took in the roles and responsibilities of all the players and the capacity of each agency to play the role expected of it. It would be unusual for an officer facing a significant erosion of his or her unit's or agency's capacity to implement the government's external policies not to alert other agencies to the problem. In a team situation, open and honest communication is important. I would expect any senior officer worried about his or her unit's ability to play its part in

interagency exercises to ensure that other affected agencies were aware of the situation.

COMMUNICATION WITH SPOUSES AND FAMILIES

13. MFAT officers' spouses or partners and family have a huge stake in such matters as the officer's career prospects, term of appointment, pattern of deployment and conditions of service. A posting decision determines for spouses as well as officers what kind of life they will be leading, what culture they will be living in, what their living conditions will be, how their children's schooling will be affected, what language they may need to learn, what friendships they may make (and lose), what risks to health, life or property they may face, what medical services they will have access to, what expectations will be placed on them by the local and expatriate communities and so on. Decisions on overseas postings are necessarily joint decisions between the officer and his or her family.

14. The impact on officers' families of significant changes in such matters as posting options, length of tours, levels of remuneration, schooling and health care assistance is hard to overestimate. Spouses have in many cases sacrificed a great deal in order to accompany a Ministry officer on overseas assignments - careers, friendships, having their children with them and so on. Many postings involve cross cultural challenges, hardships, isolation and even danger.

15. A large number of spouses have over the years made a significant contribution to the success of officers' postings, not just by agreeing to take the family abroad but by participating in representational work, engaging in activities supporting the local New Zealand community, developing relationships that will be helpful to the work of the post and carrying out work - for example in the area of cultural diplomacy - in their own time. Although there is no formal contract between the Ministry and family members, the Ministry's Code of Conduct makes clear that certain standards of conduct are expected of officers' families at a post as well as of officers themselves.

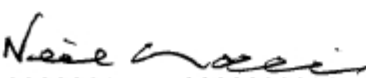
16. Managers in Wellington are expected to take an interest in the morale and welfare of staff working under their supervision. They have a duty to raise any significant welfare or morale issues with their supervising officers - and to advocate on behalf of staff in the event that changes in administrative policies seem likely to pose significant personal or professional problems. The responsibilities of a Head of Mission for staff at the post, although not spelled out in precise terms, are even more weighty. Heads of Mission (and in many cases their spouse) are traditionally seen as having a general duty of care for the welfare and morale of all staff and their families at the post. They too are expected, in line with good employer practice, to see that matters affecting their staff are properly addressed.

17. It is inconceivable to me that any officer confronted by significant changes in the Ministry's conditions of service would not discuss them fully and at length with his spouse and family - or that the Chief Executive and the Ministry's senior management team would not welcome the fact that spouses were being consulted about such changes. .

18. In my time a Partners Group existed to provide a support network and forum for discussion of issues affecting spouses and families on postings. As I recall, the Group occasionally made representations on specific issues through the Foreign Service Association. My senior management team and I saw them as a responsible and important group and felt it was important to involve them - and where possible get them on board - in any consideration of major changes to the terms and conditions of overseas service. Close engagement with spouses possibly explains why I do not recall any instance of the Group's having been publicly critical of the Ministry's administrative policies, notwithstanding that in recent decades the Ministry has undertaken a series of wide-ranging change processes.

PERSONAL COMMENT

As a public servant who observed the damage done by the discouragement and suppression of contestable debate (and the humiliation of those who proffered alternative views) during the Muldoon years, I attach considerable importance to maintaining a climate of open and contestable discussion and communication in the public service. Public servants should be encouraged to discuss both policy and management issues freely and frankly among their colleagues. Ministers owe it to themselves and to the nation to stay open to advice from officials. Upholding the tradition of a politically neutral public service that provides impartial and professional advice to Ministers is the best way of ensuring that issues will be considered in terms of the wider national interest rather than short term political concerns.


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Neil Walter

Wellington
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