

POLICY AND GOVERNANCE

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ublic sector reform in New Zealand: Issues of Public Accountability

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Abstract

The new Zealand public reform process of the late 1980s and early 1990s was notable for its attempt to clarify public accountability through the specification of outputs, contractual agreements and the disaggregation of government departments into smaller, more sharply focused agencies. While the reforms achieved managerial improvements, the accountability regime was less successful because of the difficulties of specification and the continuing robustness of ministerial responsibility in the face of attempts to limit the political control and accountability.

PUBLIC SECTOR REFORM IN NEW ZEALAND – ISSUES OF PUBLIC ACCOUNTABILITYⁱ

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Abstract: The new Zealand public reform process of the late 1980s and early 1990s was notable for its attempt to clarify public accountability through the specification of outputs, contractual agreements and the disaggregation of government departments into smaller, more sharply focused agencies. While the reforms achieved managerial improvements, the accountability regime was less successful because of the difficulties of specification and the continuing robustness of ministerial responsibility in the face of attempts to limit the political control and accountability.

I: Reassessing the New Zealand Model

New Zealand holds a special place in the recent history of public sector reform. In three major pieces of legislation in the 1980s (the State-Owned Enterprises Act 1986, the State Sector Act 1988 and the Public Finance Act 1989) it implemented a particularly radical version of what became known as the ‘new public management’ (NPM) and indeed provided an archetype of that movementⁱⁱ. The fact that reform was premised on a coherent theoretical blueprintⁱⁱⁱ which was then followed through with remarkable thoroughness and consistency marked New Zealand out as especially interesting to academic analysts as well as to practitioners with a taste for rational principle rather than incremental pragmatism. The degree of principled consistency was always somewhat overstated^{iv} and the system was subject to constant adjustment after its initial enactment. None the less, it stands out as a heroic, and ultimately (and predictably) unsuccessful, attempt to ground public management on clear assumptions and unambiguous principles.

Clarity was the watchword of the reforms. The root causes of government inefficiency and ineffectiveness were perceived to be the failure to specify the objectives of

government agencies and confusion over roles (between politicians and public servants and within public agencies)^v. Once each agency and each key actor had their role clarified and their objectives specified, they could be freed from debilitating controls over inputs and processes. They could also be more readily held accountable for their performance in terms of clearly specified roles and objectives.

From these assumptions followed most of the key elements of the new system^{vi} such as: the separation of the roles of ministers and departmental chief executives (CEs), with ministers responsible for choosing 'outcomes' and CEs responsible for delivering 'outputs'; the emphasis on clear specification and costing of departmental outputs; the separation between the government's interest as 'purchaser' of public services and its interest as 'owner' of government agencies (and the consequent distinction between 'vote' ministers and 'responsible' ministers); the decoupling of non-departmental agencies ('crown entities' and 'state owned-enterprises') from ministerial direction; the disaggregation of large multi-function departments into more narrowly focused policy ministries, service delivery agencies and independent monitoring agencies; the reliance on explicit contract-like agreements to spell out the government's expectations from individual CEs and agencies.

The New Zealand system has been subject to extensive examination^{vii}, including two major government-sponsored reviews^{viii} as well as several thorough academic assessments.^{ix} In terms of improved efficiency and effectiveness, considerable benefits have been found to flow from the relaxation of central agency controls over inputs, the reorientation of agencies towards results and the adoption of strategic planning. Savings have been achieved through the decoupling of public service provision from core government departments, for instance through outsourcing, corporatisation and privatisation.

How far these benefits are due to the unique features of New Zealand's version of NPM, such as the strict output/outcome distinction, disaggregation into more sharply focused agencies, and a reliance on formal contractual agreements, is open to question. Broadly similar results have been observed, for instance, in Australia^x, which deliberately eschewed a contractual approach and opted for amalgamation rather than disaggregation as a means of achieving efficiencies, not introducing its own version of outcome/output budgeting until the late 1990s. The main advantages for the New Zealand public sector appear to have flowed from managerialist

initiatives, such as increased autonomy for managers and a new emphasis on objectives and planning, rather than from formal contracts or disaggregation.^{xi} Supposed gains in efficiency and effectiveness are far from uncontested^{xii} but will not be discussed further in this article which focuses more on public accountability.

The system is now subject to major revision, involving a fundamental reappraisal of some its assumptions. The Labour/Alliance government, elected in 1999, established a Review of the Centre Advisory Group, which reported in late 2001.^{xiii} The Group identified a number of weaknesses and also recommended several changes, including the need for departments to align themselves more closely with the government's goals by engaging more positively with outcomes as well as with outputs. Improved integration of service delivery across multiple agencies was also called for. Given that the Advisory Group included the chief executives of the three key central agencies (State Services Commission, Treasury, and Prime Minister and Cabinet), the envisaged changes were naturally described as refinements to the existing system which did not require any fundamental rethinking of its assumptions. Government ministers, however, such as the Minister of State Services, Trevor Mallard, have been more outspoken in their criticism of the narrowness of the system and in their advocacy of major change.^{xiv}

The envisaged changes reflect the new UK-inspired emphasis on 'whole of government' which is in some respects the antithesis of the New Zealand system, stressing complex networks rather than clear lines of accountability and shared values rather than detailed contracts. International trends have shifted and New Zealand is no longer in the vanguard but now looks more like a dangerously exposed outlier. Its new path is more moderate and mainline, aiming at convergence with Westminster counterparts, Australia, Canada and the UK.^{xv} While official New Zealand opinion talks carefully of additions and modifications, leaving the fundamentals of the former system intact, the extent of back-tracking is not lost on more independent observers, such as Graham Scott, Secretary of the Treasury from 1986 to 1993 and one of the system's key architects. As he ruefully remarks^{xvi}, overseas visitors are now less likely to come to Wellington in search of new ideas. The public sector reform caravan has moved on.

In Hegel's famous metaphor, the setting of the sun prompts the owl of Minerva to spread its wings. When an era is finishing, reliable historical analysis can begin. Looking back on New Zealand's decade of public sector experiment, now that the system is being significantly modified, allows the peculiar strengths and weaknesses of the New Zealand approach to become more sharply defined. This article concentrates on one aspect of that system, its structure of public accountability. It begins with an outline of the structure as outlined in the original reforms, concentrating on the unique aspects, and then considers a number of accountability problems that emerged through the 1990s which underline the difficulty of securing a tidy and coherent accountability regime.

II: The reformers' accountability agenda

Accountability has been a central component of the new public management agenda worldwide, providing the key incentive for newly liberated public managers to deliver the objectives set for them by governments. Comparison with the private sector revealed a number of deficiencies in the accountability regimes of most government agencies and public servants.^{xvii} Public managers were scrutinised too heavily for the procedures and processes they follow and not sufficiently for the results of their activities. Government institutions should emulate the 'tight-loose' structure favoured by business, in which managers were held accountable in terms of tightly defined objectives but given a relatively free rein about the choice of means. At the same time, public managers were too subject to political accountability from elected politicians willing to intervene in any administrative act in response to political pressure. If managers were to be free to deliver their specified objectives efficiently and effectively, they needed to be able to make their own decisions about how to achieve these objectives. Political accountability which shines the spotlight of public attention on any issue, no matter how trivial, tended to distract public managers from their goals and to make them risk averse. It was better therefore to rely on other, less politicised mechanisms such as independent regulators and auditors or accountability directly to members of the public. The NPM accountability agenda can therefore be summed up as advocating a change in the subject matter (*for what*) of accountability, from inputs and processes to results; and a change in the processes (*how*) away from political avenues, and towards regulators and the public.

The New Zealand version of this agenda, as already noted, was remarkable for its general emphasis on clarity and specification, which applied to accountability in all its dimensions, in the specification of *who* is to be accountable *to whom*, *for what* and *how*. Individuals and agencies were to be held accountable in terms of detailed agreements negotiated with government ministers which set out their respective duties (*for what*). For core government departments, the central mechanism for such specification was to be the formal annual purchase agreement between ministers and departments. This set out the outputs that departments would provide their ‘vote’ ministers. Individual outputs were to be collected into output classes, which were then separately costed on an accrual basis. Output measures needed also to be provided by which the quantity, quality and timeliness of each output class could be assessed.

The same information was also incorporated into the annual performance agreement between the minister and the chief executive and as well as into the departmental forecast reports in which departments set out their expected performance (since discontinued). Departments were also required to report in terms of their proposed contribution to the government strategic objectives, through strategic result areas and more detailed key result areas. ‘Ownership’ interests, that is the government’s interest in maintaining the long-term viability of departments as distinct from the purchase of annual outputs, were separately spelled out in a further planning document. Non-departmental agencies (‘crown entities’) that provided public services were required to prepare a statement of objectives specifying the classes of outputs to be produced while State-Owned Enterprises needed to provide a statement of corporate intent.

These forward-looking documents then provided the basis for *ex ante* accountability, as chief executives and agencies reported on performance in terms of their agreed outputs and according to the agreed measures. The clearer and less ambiguous the function of each agency within the system, whether as purchaser, provider, owner or monitor, the more easily its desired performance could be defined and the more readily it could be held accountable for meeting this performance.

Increased accountability for performance was accompanied by reduced accountability for decisions about how resources were to be used in pursuit of agreed goals.

Efficiency, it was argued, would be improved if individual agencies and managers had the freedom to make their own choices about how best to achieve their objectives. Thus, accountability to central agencies for matters such as staffing levels or the purchase of office accommodation was greatly reduced, allowing managers to make considerable savings. Accrual accounting, by providing managers with reliable information about their financial resources and commitments, provided a base from which they could make savings and increase productivity.^{xviii} Again, provided the end was clearly specified, control over the means could be relaxed, allowing a more ‘tight-loose’ model of accountability closer to that found in the private sector. Indeed, the relaxation of such controls and accountability was the most widely recognised advantage of the new system.^{xix}

Reporting of departmental performance (the *how* of accountability) was to take place through a number of avenues, many of which were well-established, for instance through ministers to Parliament and the public, to parliamentary committees, to central agencies such as the Treasury and the State Services Commission, and to the Audit Office. These avenues in some cases have become more formalised, particularly that between ministers and chief executives which is now a matter of specified agreements rather than informal understanding. In addition, a number of new regulatory and monitoring bodies were introduced for non-departmental agencies as a means of reducing their political accountability through departments and ministers, thus confirming their arms-length position relation to government. Thus, the performance of SOEs and other Crown companies was monitored by the Crown Company Monitoring Advisory Unit while schools became accountable to the independent Education Review Office.^{xx}

A notable contrast between the New Zealand system and most other versions of the new public management was New Zealand’s comparative lack of interest in improving accountability directly to members of the public who use public services. One of the key objectives of the reforms was certainly to provide improved service to the public.^{xxi} But the mechanisms chosen did not involve giving ordinary members of the public a greater right to complain about service. Nor did they encourage front-line bureaucrats to answer directly to those whose services they provided. In this respect, the New Zealand version differed from that of the United Kingdom where the

Citizens' Charters has played a key role in setting out the rights of individual citizens, including their rights of access to complaints procedures. New Zealand also diverged from the reform movement in the United States where one of the main aims of empowering local officials has been to allow them to become more responsive and accountable to individual communities and citizens.^{xxii} Accountability procedures for individual citizens certainly exist within the New Zealand system, for instance through the courts or the Ombudsman (an institution which New Zealand was the first Westminster regime to introduce in 1962). However, with the exception of the troubled health sector where new grievance procedures were added to meet particular problems of professional incompetence,^{xxiii} the reformers did not seek to strengthen such mechanisms. Instead the main avenue of public accountability was through the representative institution of Parliament. Public agencies were accountable to ministers and to Parliament who, in turn, were accountable to the voters who elected them.

The stated reason for the emphasis on upward accountability to ministers and Parliament was, again, the search for clarity. Managers needed uncluttered lines of accountability if they were to be able to manage efficiently and effectively. '[T]he chain of accountability [should be] undivided with the Minister at its head'.^{xxiv} By implication, any introduction of further avenues of direct scrutiny would blur both accountability and responsibility. In particular, managers needed to be fully in charge of their agencies which meant that their subordinates should be accountable upwards through the organisational hierarchy and not independently accountable to the public. By contrast, where upwards accountability to superiors is combined with direct accountability to members of the public, the loyalties of front-line staff can be divided in different directions,^{xxv} thus compromising the leader's control.

Accountability for the quality of public services has thus been primarily directed upwards to ministers and to Parliament, by means of agreed outputs directed to preferred outcomes. Individual service providers have certainly encouraged to be more responsive to the public's needs, by the detailed specification of service standards in contractual agreements and by the introduction of competition between alternative providers. In this respect, at least, the New Zealand reforms share in the general NPM emphasis on improved customer service and client focus. But the New

Zealanders, arguably correctly,^{xxvi} have not identified *responsiveness* to clients, in the sense of sensitivity to their clients' wishes, with *accountability* to their clients. Strictly speaking, accountability is a 'voice' mechanism, involving the right to call someone to account in terms of a prior duty or obligation. The contractual obligation for the provision of public services is normally between the government and the provider. Members of the public are beneficiaries of service provision as specified in the contract. But, unlike customers who purchase services directly from a commercial company, they are not formal parties to the contract and therefore lack any accountability rights under the contract (Martin 1995, 51). In so far as the New Zealand system has depended on formal contractual obligations as a basis for accountability, the public have been excluded from any direct accountability relationships with providers.

III: The constitutional framework

The value placed on a clear line of accountability through chief executives to ministers, Parliament and the public reflects the constitutional structure that existed in New Zealand until the mid 1990s. New Zealand was an extreme version of majoritarian democracy, more 'Westminster' than Westminster itself – unitary, unicameral, with a simple plurality electoral system providing single-party majorities, and with limited judicial review.^{xxvii} In all Westminster systems, but particularly in the purer forms such as New Zealand and the United Kingdom, the central mechanism of government accountability is the chain of ministerial and parliamentary responsibility, which makes officials answer to their superiors, chief executives to ministers, ministers to Parliament and Parliament to the people. In New Zealand, with its comparatively small scale and traditions of populist responsiveness, ministers have always been readily available to the public and expected to react decisively to public pressure. Government officials brought up in that system would take it for granted that ministers could impose their chosen policy directions on departments and that they would be politically accountable for these choices to the public through the conventions of ministerial and parliamentary responsibility, to Parliament, the media and the electorate in regular, three-yearly elections. Such an institutional context is a polar opposite from that found in a system of separated powers such as the United States, where department heads see themselves as 'accountability jugglers',^{xxviii}

caught between the conflicting demands of the White House, Congress, the state governments and the courts.

New Zealand's constitution has since been significantly modified by a change to the electoral system from simple plurality to mixed member proportional, first implemented in the 1996 election. The new system militates against single-party majority government and forces ministers to negotiate key policies with politicians from other parties. The change was largely provoked by the reform movement itself which was seen to have abused the extensive powers accorded to the executive branch under a unitary and unicameral Westminster system.^{xxix} These powers have not been curtailed but a more representative and assertive Parliament has strengthened the public accountability of ministers and reasserted longstanding expectations that ministers will exercise their formidable powers in line with public opinion rather against it.

IV: accountability for outputs

To what extent did the reforms live up to their supporters claim of increasing government accountability? In the first place, the output-based framework failed to deliver the clarity of accountability that the reformers had hoped for. A perennial problem has been the definition of outputs (or output classes), namely the results for which departments would be accountable. Even though outputs were deliberately preferred to outcomes as accountability targets because they were less ambiguous and more easily specified and measured, they often proved difficult to specify meaningfully. The Treasury, as the agency overseeing the budgetary process, put much effort into helping departments define their outputs and output measures and was able to achieve a certain degree of consistency across the sector.^{xxx} However, outputs often remain comparatively uninformative guides to what the public can expect from their public servants. The theory of *ex ante* specification, on which contractual accountability depends, implies that someone dissatisfied with the performance of an agency will be able to point to a clause in the agreement and complain that it has not been met satisfactorily. In practice, however, interested parties, whether ministers, members of parliamentary committees, media commentators or members of the public, rarely, if ever, resort to output statements or

output measures as the basis for holding governments to account. Instead, they generally take it for granted that the agency is responsible for the policy or decision in question and proceed immediately to discuss its merits in terms of generally accepted performance standards, without reference to stated output or output measures.

One reason for bypassing the output statements in public debate is that they are usually too unspecific to be of much assistance in nailing down the agency's obligations. Because of the uncertain political environment in which most government agencies operate, *ex ante* specification of what needs to be done tends to encourage vague and porous terminology, sufficiently general to cover any likely eventuality.^{xxxii} The difficulty of specifying output classes for government departments has been particularly associated with outputs for policy advice, one of the key areas in the core public service, where output classes typically are opaque and the performance measures banal.^{xxxiii} But the problem of accurate specification goes much further than the functions of formulating and recommending policy options. It also applies to most of the key areas of policy implementation, such as economic management, defence, security, diplomacy, law and order, health, education and social welfare. All these sectors have the potential to throw up unpredictable crises in which officials and government agencies will be called on to act creatively. Only in a purely formalistic way, can governments be held accountable in terms of previous contractual commitments for the actions they take in such unforeseeable circumstances.

The system mistakenly reduces all government activity to a form of quasi-material production in which the 'products' of government action can be meaningfully measured, counted and costed. In James Q. Wilson's useful typology of agencies – production, procedural, craft and coping^{xxxiii} – the first type is privileged at the expense of the other three.^{xxxiv} Indeed, the number of core government agencies that fall into the 'production' category has tended to diminish under the impact of the NPM reform movement's preference for outsourcing (contracting out). Outsourcing has been found to be successful in precisely those areas where the services to be provided can be readily specified and monitored under a formal contract. In this case, reforming governments have arguably contracted out most areas of their activity where the contractual format is appropriate for implementing accountability. Not

surprisingly, therefore, the core public sector that remains is particularly unsusceptible to this contractual approach.

Making agency heads accountable for a set of specified outputs was criticised as encouraging a 'check-list' approach to accountability.^{xxxv} Chief executives could content themselves with placing ticks against a set of narrowly specified tasks while losing sight of their overall responsibilities to the ministers and the public. Certainly, if taken literally, the structure could induce an almost mechanistic approach to compliance. On the other hand, there is little evidence to suggest that senior public servants actually behaved in such a blinkered way, restricting themselves to the letter of their agreements. Rather, they continued to exercise flexible political judgment, no doubt out of motives of sheer personal survival as well as professional commitment.

Critics of the reforms also argued that an emphasis on specified results could lead to a decline in notions of public service and public sector ethics as public servants were prepared to cut procedural and ethical corners through pressure to get the job done quickly and cheaply.^{xxxvi} On the other hand, evidence for such a decline is hard to find.^{xxxvii} At least within the ranks of the core public service (some crown entities and SOEs may be a different matter (see below)), New Zealand public servants have retained their reputation for integrity and professionalism.

The continuation of previous practices and values under the new system may have confounded the pessimism of the critics. At the same time, it underlines the basic irrelevance of the output structure for public accountability. Because officials took care to define their outputs in broad, open-ended terms and did not take their agreements too literally as a restricted set of expected activities, they were able to proceed much as before.^{xxxviii} The public naturally took its cue from the leading participants, looking elsewhere than the stated outputs for means of holding government to account.

Another aspect of the output structure which raised criticisms of undue narrowness was the deliberate separation of outputs from outcomes and the restriction of public servants to responsibility for outputs only, leaving them with no formal responsibility for the eventual outcomes which were the sole prerogative of ministers (Schick 1996, 73). In practice, the separation of functions was unworkable. The distinction between

outcomes and outputs recycles the discredited distinction between policy, on the one hand, and administration or implementation on the other.^{xxxix} Professional public servants who were expected to assist their ministers and to support the government's priorities could not distance themselves from the impact of their agencies' operations.

Subsequent amendments to the output/outcome framework sought to remedy this deficiency. In New Zealand, the adoption, in 1994, of a government-wide strategic planning framework, using Strategic Result Areas (SRAs) and Key Result Areas (KRAs),^{xi} was an attempt to widen the focus of agency heads. A similar concern is also evident in the Labour government's recent introduction of departmental 'statements of intent' which include reference to outcomes and reasons for their selection, though final responsibility for choosing outcomes is still left with ministers.^{xli} The lesson was not ignored elsewhere. When the Australian Commonwealth introduced its own version of the output/outcome budgetary system in the late 1990s, care was taken to include both outcomes and outputs in the objectives of departments.

In terms of public accountability, this attempted restriction of public servants' responsibilities had potentially the greatest impact in parliamentary committees where public servants are directly interrogated about their department's performance. Questions about the impact of departmental policies could be deflected on the ground that outcomes are the responsibility of ministers not public servants. None the less, some committees, notably the Maori Affairs Committee, have been able to broaden debate to include discussion of policy outcomes. Moreover, conventions governing parliamentary committee procedure have always recognised the right of public servants to avoid answering politically controversial questions on the ground that they are matters of ministerial 'policy', itself an imprecise and inevitably contested claim.^{xlii} In the absence of detailed research, there is no reason to think that the new framework significantly altered or clarified the boundary line between questions that public servants will answer and those that they will refer to their political superiors.

Not that the output structure is totally without value for public accountability. Like any budgeting framework it provides a mechanism not only for appropriating public funds and but also for auditing expenditure. The detailed costing of output classes has enabled the Controller and Auditor-General and the Audit Office to examine whether

funds have been spent for their intended purposes.^{xliii} In addition, the focus on outputs rather than inputs has helped in the extension of the audit function beyond mere compliance auditing to non-financial performance or value-for-money auditing.^{xliv} Once agencies are explicit about their intended outputs and the measures by which these outputs are to be assessed, auditors can more readily provide an independent assessment to Parliament and the public of whether they agencies are meeting their stated objectives. Indeed, government auditors are among the most enthusiastic supporters of the new structure, urging continuing development and refinement of its various elements.^{xlv} Overall, however, the specification of outputs does not appear to have delivered any major accountability dividend to the politicians or public or to have altered existing accountability practices as much as reformers had hoped or critics had feared.

V: restricting political accountability

The aspect of the public sector reforms which had the greatest effect on public accountability was not the output/outcome framework itself but the institutional decoupling and disaggregation that accompanied it. Again, the stated intention was to improve accountability by separating functions and clarifying responsibilities but, in practice, the intention was not always achieved. The key aim was to quarantine institutional responsibility for overall policy and political direction, a function of the elected government and its individual ministers, from the implementation and administration of policy, which was to be devolved to separate officials or agencies. The justification was based partly on a conviction about institutional capture,^{xlvi} whereby general policy, which ought to be the prerogative of the democratically elected government, was unduly controlled by bureaucrats and state-paid professionals, such as teachers, doctors and social workers. At the same time, managerial efficiency was compromised if ministers could intervene in operational details in response to political pressure. The reformers thus exhibited the ambivalent attitude towards political control and accountability typical of the NPM movement.^{xlvii} While they wished to reassert political control over policy, they also intended to limit control over day-to-day government operations. It was the latter trend, the attempted limitation on political control that had potentially the most significant effects on

accountability by restricting the scope of the central and most effective mechanism of public accountability, the chain of ministerial responsibility.

The attempted restrictions on ministerial responsibility and accountability occurred in three areas. One was in the core public service, in the redefined relationship between ministers and chief executives of government departments. The second was in the broader public sector of crown entities and SOEs, where ministers dealt at arms-length with more or less independent agencies. The third was where functions were moved outside the public sector altogether, through outsourcing or privatisation.

VI: Ministers and departmental heads

How far the relationship between ministers and chief executives was actually changed by the reforms is a matter of dispute.^{xlviii} On the one hand, the introduction of the outcome/output distinction, with its clear demarcation of the respective roles of ministers and chief executives, was obviously intended to distance the chief executive from the minister, making the minister responsible and accountable for overall direction and leaving the chief executive to accept responsibility and accountability for day-to-day operations of the department. On the other hand, apart from the traditional embargo on ministerial intervention in personnel decisions which was written into the new Act (State Sector Act 1988 s 33), ministers retained overall responsibility for their departments and chief executives were responsible to them for the conduct of the department. Ministers could still be, and are, called on to answer for any action taken within their departments. The State Services Commission, in its guidance material on public service principles, combines both principles: departments are ‘extensions of the minister acting in the minister’s name and in accordance with the minister’s wishes’ and chief executives have ‘delegated authority to enable the production of contracted outputs’ and are ‘accountable for the exercise of this authority’.^{xlix} Thus both ministers and chief executives would appear to have the right and obligation to account publicly for the actions of departments.

Some of the confusion derives from the traditional conventions of ministerial responsibility itself which are still the subject of dispute and misunderstanding. The central accountability function of ministers in relation to departmental actions is to answer to the public, by providing information and taking any necessary steps to impose remedies and sanctions. Accepting personal blame or penalty, including the

penalty of resignation or dismissal, is not expected unless the minister shares some direct personal responsibility and, even, then is largely a matter of political judgment.ⁱ A corollary of ministerial accountability for departmental action is that public servants remain anonymous, regardless of their personal responsibility, and leave the public answering to the minister.

The convention that only ministers answer to the public while public servants remain unheard and unnamed has been steadily relaxed over several decades, beginning well before the public sector reforms. Innovations such as the introduction of the Ombudsman, the extension of parliamentary select committee investigations and Official Information legislation all exposed public servants to direct public accountability. The overall structure of ministerial responsibility, however, still remained, with ministers left to answer to Parliament and the media. The NPM reforms, with their delineation of separate responsibilities for ministers and chief executives, have added further impetus to this trend, giving license to chief executives to respond directly to public concern over departmental actions. As a result, senior public servants have become more visible in the media than previously and have sometimes been forced to carry the can for politically controversial decisions.ⁱⁱ

The potential for confusion over accountability roles of ministers and chief executives under the new structure was graphically illustrated in the aftermath to the Cave Creek tragedy where fourteen people lost their lives in 1995 after a poorly built public viewing platform collapsed. The incident raises a number of major accountability issues and has been exhaustively analysed, particularly in relation to the question of allocating personal blame for collective failure.ⁱⁱⁱ Cave Creek was a classic case of the problem of 'many hands' where personal responsibility for collective failure is shared among a number of individuals and where blame attaches to the organisation as a whole rather than to any one person. Public anger at the loss of life demands that heads should roll, particularly the head of the person in overall charge, provided that some, at least, of the personal responsibility can be sheeted home to that person. But, in the case of Cave Creek, who was this person? Traditional ministerial responsibility would argue for the head of the Minister, Denis Marshall, which was the option urged by the Opposition and the media. In support, they argued that the systemic failure was partly due to shortage of funding, a ministerial responsibility. However, the Chief Executive of the department concerned (the Department of Conservation), Bill Mansfield, not the Minister, accepted immediate responsibility for the disaster,

answering questions from the media, accepting collective responsibility and promising to investigate all aspects of the tragedy.^{liii}

Mansfield, with the Minister's tacit support, was thus adopting the implications of the new structure which gives responsibility for departmental operations to the Chief Executive. On this logic, it followed that the Chief Executive should have offered his scalp to appease the public's demand for retributive justice. Indeed, in response to the incident, the State Services Commission formulated rules about when chief executives should consider resignation for operational failure in their departments.^{liv}

In the event, neither Minister nor Chief Executive resigned in direct response to the tragedy (though the credibility of both was sufficiently damaged that they were subsequently forced to move on). The main reason, no doubt, was the natural reluctance of any organisational head to take the rap for collective failure when most of the blame is thought to lie with subordinates. But the new structure certainly helped to compound the difficulty by confusing the question of who was actually in charge and who should therefore take collective responsibility. Traditional expectations that the minister was in charge of a department had been allowed to continue alongside a new framework which seemed to give prime responsibility for departmental actions to the chief executive. The effort taken to clarify the respective accountability roles of ministers and chief executives thus proved counter-productive in a major crisis. As the practical unreality of the output/outcome distinction indicates, a neat wedge cannot be driven between the duties of ministers and those of chief executives. Both share in a common enterprise with overlapping goals but with the minister retaining ultimate control and accountability.

Though the accountability role of ministers may have been somewhat weakened by the growing visibility of chief executives, few wish to see ministerial responsibility removed from its central role in defining the relationships between ministers, departments and the public. Ministers who take the tempting route of dodging accountability for unpopular departmental decisions are still likely to face strong public criticism.^{lv} Particularly when ministers are not personally responsible for departmental mistakes or failures, they usually have more to gain by fronting up to the media themselves and promising remedial action than by passing the buck to an official. Officials, in turn, as members of a professional bureaucracy, have every incentive to shun the media spotlight and to avoid compromising their political neutrality. Damaging public conflict between the incoming Labour/Alliance

government and some senior public servants underlined the risks for professional public servants in acquiring a high public profile.^{lvi} The conventions of ministerial responsibility, though imprecise and sometimes flouted, remain fundamentally strong.

VII: non-departmental agencies

The strength of public expectations about ministerial responsibility also caused problems in the wider non-departmental public sector of crown entities and SOEs, where ministers were much more unambiguously decoupled from day-to-day responsibility. While core departments remained under ultimate ministerial control, crown entities and SOEs were legally independent. SOEs were established as publicly owned trading companies, each with its own board who in turn appoint a chief executive. The powers of ministers over SOEs were restricted to appointing the board, setting dividend levels, monitoring performance and agreeing to an annual Statement of Corporate Intent.^{lvii} Crown entities form a large residual category which includes the great range of publicly owned organisations that are neither core departments nor SOEs, for instance various service delivery agencies, government boards and commissions, schools, hospitals and so on.^{lviii} All are to some extent at arms-length from ministers though most are heavily dependent on public funding, typically delivered through annual purchase agreements similar to those applying to departments.

Non-departmental public bodies are subject to the normal public sector accountability agencies, such as the Audit Office and the Ombudsman. Most must also report to Parliament and submit to scrutiny by parliamentary committees. Such procedures are sometimes unwelcome to boards and managers with a private sector background, particularly in SOEs which have a largely commercial orientation and resist intrusion into matters of supposed commercial sensitivity which private companies would consider to be none of the public's business.

In theory, because of their arm-length status, the political accountability of non-departmental bodies through the chain of ministerial responsibility is significantly less than for core government departments, making direct scrutiny through parliamentary committees even more important as an avenue of political accountability. In the case of SOEs, in particular, ministers have usually been able to distance themselves from responsibility for individual decisions.^{lix} For instance, when the Post Office was a

government department under ministerial control, an uneconomic post office could rarely be closed for fear of local political repercussions relayed through the minister. Once the Post Office was corporatised, however, hundreds of post offices were closed and the government was able to disclaim all responsibility and accountability.

In relation to crown entities, on the other hand, most of which are less easily assimilated to a commercial model than SOEs, ministers have been less able to resist public pressure to take responsibility for unpopular decisions. In housing, for instance, responsibility for managing public housing was devolved to Housing New Zealand, a statutory body with its own government-appointed board and the objective of providing housing and related services profitably and efficiently. However, because housing decisions were often politically controversial and seen to be matters of government policy, ministers were inevitably drawn into public discussion and defence of justification of Housing New Zealand decisions. The management therefore found itself operating under conflicting objectives, required both to make a profit and to respond to the political demands of government, and therefore unable to keep to its official statutory role.^{lx}

Another problematic area has been the health sector which was restructured on a funder/purchaser/provider model with the aim of introducing market-based incentives and reducing political control and accountability.^{lxi} Even so, ministers could not distance themselves from controversial decisions^{lxii}. For instance, when kidney dialysis was denied to a dying patient by a crown entity hospital, the Minister of Health was forced to answer for the decision.^{lxiii} Indeed, the attempt to quarantine the health service from political control and accountability proved so unpopular that the Labour/Alliance government returned to a form of the pre-reform structure whereby political accountability through the Ministry and the Minister is combined with accountability through locally elected board members. The government has thus opted for a plethora of overlapping accountability channels over any attempt at clarification and simplification.

Individual crown entities, as well as some SOEs, have also been the subject of public criticism for behaviour considered inappropriate for public service agencies, for instance conspicuous corporate consumption and junketing,^{lxiv} extravagance in the employment of consultants^{lxv} and blatant lobbying in the pursuit of advantageous government policies.^{lxvi} In most cases, board members and executives could justifiably argue that they were acting within their statutory brief as independent

agencies and merely following practices standard in the non-government sector. However, public expectations, particularly when articulated through the media and the parliamentary opposition, tend to apply the same standards to all public employees, regardless of the precise legal status of the agency that employs them.

The popular pull of ministerial responsibility, and the expectation that ministers will be accountable not only for government policy but also for the implementation of policy, has thus often overridden the reformers' attempt to distance non-departmental government agencies from political control. The public have simply refused to buy into the distinction between departments and crown entities and the simplistic demarcation between policy and delivery on which it is based. A major weakness in the restructuring was that crown entities tended to be treated as a single catch-all category of arms-length agency. In fact, however, they range from agencies which have a well-established rationale for being independent of government interference, for instance judicial and quasi-judicial bodies, research institutes and cultural institutions, to agencies whose sole function is to deliver government policy, such as the Housing New Zealand or Work and Income New Zealand. The current government therefore sponsored a new Crown Entities Bill that would clarify accountability relationships with ministers by providing for different categories of crown entity reflecting different levels of ministerial intervention.^{lxvii}

VIII: outsourcing and privatisation

The more extreme types of decoupling removed functions entirely from the public sector, either through outsourcing to private sector contractors or through full privatisation, that is the full transfer of ownership to private owners. In the case of outsourcing, which has been extensively adopted in most areas of government, governments retain responsibility and for funding and determining the services in question and therefore, in theory, remain as accountable for the quality of the final service as if it were provided by a government agency. As with arms-length crown entities, the potential exists for ministers to distance themselves from unpopular decisions on the ground that detailed implementation is the responsibility of the contractor. In practice, however, public pressures remains on ministers to take full responsibility for the outputs of private contractors. Of more concern is the practical capacity of government agencies to monitor the performance of so many contractors

(over 1300 organisations for the Department of Child, Youth and Family Services in 1999-2000^{lxviii}). In addition, a major effect of outsourcing on accountability, as elsewhere, has been to restrict the range of matters *for which* providers are accountable, particularly on employment conditions where private sector standards apply rather than the public sector's stricter (and more costly) procedural fairness requirements. On the whole, contractors are accountable for delivering results and less so for the processes by which results are achieved. However, particularly with contracts to Maori groups, where the media and the public are very alert to alleged extravagance in the use of public funds, governments may be held accountable for how much contractors spend on themselves even when such questions are outside the specified terms of the contract.

The most profound effect on public accountability was achieved through outright privatisation when the government sold its ownership rights in government corporations to private companies. The process of corporatisation under the State Owned Enterprises Act 1986 allowed SOEs to be turned into commercially-oriented companies, rendering their continued public ownership hard to justify and thus facilitating an eventual transfer of ownership to the private sector. By the mid 1990s, most of the major SOEs had been privatised.^{lxix} Though subject to varying types of public regulation, privatised companies were effectively removed from the reach of political accountability. Even here, however, as elsewhere,^{lxx} ministers can still be called to account for the failure of privatised services such as railways or national airlines.

IX: Conclusion

In conclusion, the New Zealand experiment in public accountability appears to confirm the irremediable complexity of accountability structures in modern democracies which derives from the complexity of government systems and of the policies and decisions that governments produce. From an analysis which deplored that fact that government agencies and their political masters operated under ambiguous objectives with conflicting lines of accountability, the reformers set out to clarify both the demands made on ministers, agencies and their managers and also the mechanisms through which they were to be held accountable. Overall, however, the quest for greater clarity through disaggregation and specification proved elusive.

When the new structure came under pressure as a result of public dissatisfaction with government performance, it was simply swept aside by the long-established mechanisms of ministerial and parliamentary accountability.

These mechanisms, for all their ambiguity over who is accountable for what, do at least harness two central features of the constitution – the publicity guaranteed by Parliament (and exploited by a free media) and the executive power of elected ministers to impose remedies in response to public pressure. In Westminster systems such as New Zealand, the conventions of ministerial responsibility are so entrenched in the political culture that they cannot easily be overturned simply by altering the formal, legal relationships between ministers and public servants or even by devolving responsibility to the private sector. So long as elected governments retain overall control through their extensive executive powers, they will be held accountable for government policy. The public, including the media, will not easily surrender a mechanism that provides the most reliable means of placing the government under pressure to be publicly accountable.

As New Zealand adopts the new slogans of ‘whole-of-government’, ‘networks’ and ‘partnerships’ even greater strains will be placed on the current accountability framework. Though, for reasons of political *amour propre*, changes will be described as modifications which leave the fundamentals unaltered, they will pose further challenges to the structure of specified departmental outputs and outcomes which remains at the heart of the structure. Analysts within the State Services Commission have already noted the difficulty of devising clear lines of accountability and clear *ex ante* expectations within a system that is designed to encourage shared responsibilities for outcomes, institutional learning, and flexible responses.^{lxxi} In this environment, the emphasis on the costing and measuring of agency outputs will become even more tangential to the reality of agency performance. At the same time, the conventions of ministerial responsibility and upwards accountability within agencies can be expected to exercise a strong pull towards institutional hierarchy and official risk aversion, thus confounding the hopes of the new whole-of-government revisionists as much as they did those of their radical predecessors.

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