



SUBMISSION OF THE FREE SPEECH UNION ON THE PUBLIC SERVICE AMENDMENT BILL

INTRODUCTION

1. The Free Speech Union (“the FSU”) is a registered trade union with a mission to fight for, protect, and expand New Zealanders’ rights to freedom of speech, conscience, and intellectual inquiry. We envision a flourishing New Zealand civil society that values and protects vigorous debate and the expression of dissenting ideas.
2. As part of its mission to restore free speech within vital professions and institutions, the Free Speech Union has established a Professional Membership specifically for public servants. The Professional Membership Council for Public Servants is comprised of public servants, and public service experts, who seek to uphold free speech and political neutrality in their professional context. Their perspectives have informed this submission.
3. This submission addresses the Public Service Amendment Bill (“*the bill*”). We support the bill, subject to the qualifications set out below. We commend the bill’s intent to strengthen the public service principles, especially that of political neutrality. However, we recommend that explicit reference to the rights enshrined by the New Zealand Bill of Rights Act 1990 (NZBORA) is necessary to counteract emerging threats to those rights, as well as to our democratic system more broadly. NZBORA guarantees the right to freedom of expression for all people, including the right to seek, receive, and share information and opinions in any form. This is not just a privilege; it is a critical sustaining feature of our democracy. We recommend introducing accountability mechanisms and strengthening channels for speaking out, in order to ensure compliance with the bill and with NZBORA, and to ensure that public servants are able to voice concerns without fear of reprisal.

4. The Free Speech Union recently made a submission¹ to the Future of Public Service Integrity Long-Term Insights Briefing (FPSI).² Many themes discussed here are likewise reflected in that submission, and references to the FPSI briefing paper can be found throughout this submission.

SUMMARY OF STRENGTHS AND RECOMMENDATIONS

5. Key **strengths** of the bill include:
 - a. **Strengthening the core public service principles, especially political neutrality:** To align with NZBORA and provide an open organisational environment within the public service.
6. Our key **recommendations** are summarised as follows:
 - a. **Expand the leadership responsibilities of chief executives and the Commissioner:** To include a responsibility to uphold the rights enshrined by NZBORA, including freedom of speech and freedom of conscience.
 - b. **Strengthen accountability mechanisms for key leadership roles, including chief executives and the Commissioner:** To address failures of leadership and ensure the fulfilment of the responsibilities of chief executives, and of the Commissioner, as defined by the Public Service Act 2020.
 - c. **Expand and strengthen ‘Speaking Out’ mechanisms, by:**
 - i. **Expanding the scope of concerns that might be legitimately raised,** to include breaches of the Public Service Act 2020 and the rights enshrined by NZBORA, as well as Continuing Professional Development.
 - ii. **Strengthening the ‘Protected Disclosures’ channel of the ‘Speaking Out’ process,** enabling public servants to more easily raise concerns through authorities external to their direct reporting lines.

¹ Free Speech Union. (2025). *Submission of the Free Speech Union on the Future of Public Service Integrity Long-Term Insights Briefing*. Free Speech Union. <https://www.fsu.nz/blog/submission-of-the-free-speech-union-on-the-future-of-public-service-integrity-long-term-insights-briefing>.

² Public Service Commission. (2025). *The Future of Public Service Integrity: Te Kawa Mataaho Public Service Commission’s second Long-Term Insights Briefing*. Public Service Commission.

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Strengths

Strengthening the core public service principles, especially political neutrality

7. Political neutrality is a vital pillar of a functional public service. This is recognised in the public service principle, which attests that:

“Political neutrality is about serving New Zealand’s democratically elected government to the best of our professional abilities, irrespective of our own personal political opinions. It is a hallmark of New Zealand’s system of government.”³

8. As this suggests, a politically neutral public service is a vital prerequisite of our democratic system, and likewise it is a sustaining feature of that system.

9. Political neutrality conveys a necessity for public servants to maintain impartiality and objectivity, without the influence of personal partisanship having an undue and inappropriate bearing on their work, and the functioning of Government in general. It is critical that public servants maintain political neutrality, if they are to fulfil their core duty of enacting the will of the government of the day. If public servants allow their personal political leanings to influence their work, this presents a very real threat of “*democratic backsliding*”; that is, where the sustaining features of democracy are compromised from within Government itself.⁴ Small decisions made by public servants about what to include or exclude, or to say or withhold, have potentially significant ramifications, for example on the advice that Ministers receive, the way information is portrayed, any recommendations that are made, and so on.

10. The recent FPSI briefing paper has identified politicisation as a present threat within the public service.⁵ In it, the Public Service Commission recognised local analyses that have identified “*politically responsive behaviour by public servants*” as a more “*subtle form*” of politicisation in the public service in New Zealand.⁶ This is consistent with concerns that a number of public servants have raised with us, and about which we raised concerns with Public Service

³ H. Vitalis. (2025). *Public Service principles: What are they and why do they matter?* Public Service Commission. <https://www.publicservice.govt.nz/news/public-service-principles-what-are-they-and-why-do-they-matter>.

⁴ *ibid.*

⁵ Public Service Commission. (2025). *The Future of Public Service Integrity: Te Kawa Mataaho Public Service Commission’s second Long-Term Insights Briefing*. Public Service Commission.

⁶ *ibid.*

Commissioner Sir Brian Roche in May of this year.⁷ Growing politicisation in the public service is necessarily a signal of weakening political neutrality in that environment. We therefore welcome the intent of this bill to address the politicisation of the public service by restoring and strengthening political neutrality as a vital principle.

11. A politically neutral environment is also a crucial support for other public service principles, including the provision of free and frank advice and open government. Political neutrality requires a neutral work environment, which is a vital feature of an environment that is open for diverse perspectives to be shared and professional opinions to be freely expressed. Where political opinions or ideological claims are openly expressed or endorsed by leaders of public service departments, this can have a stifling effect on the expression of alternative perspectives, as public servants may not feel able to express contrary opinions. The same could likewise occur in situations where leaders present personally held ideas as majority views or public opinion. This is understandable, since in this kind of situation, expressing a diverse perspective is no longer simply voicing an opinion, but rather could easily be perceived as speaking against one's workplace superior. A number of public servants have raised concerns with us about such dynamics becoming increasingly common within the public service.

12. Furthermore, an open environment that supports the expression of diverse views promotes the psychosocial and psychological safety of public servants, and protects against the risk of groupthink.⁸ As the seminal work of Amy Edmondson from Harvard University demonstrates, "team psychological safety," which consists of "a shared belief that the team is safe for interpersonal risk taking," depends on the individuals within the team feeling free to openly discuss ideas and raise concerns without fear of reprisal.⁹ This sentiment has been echoed by the Public Service Commission recently: "Measures to protect psychosocial and psychological safety are the foundation of an open organisational culture and deliver significant benefits to general performance as well as to disclosure processes."¹⁰

⁷ Free Speech Union. (2025). *An invitation to dialogue: Political neutrality in the public service*. Free Speech Union. https://www.fsu.nz/blog/an-invitation-to-dialogue-political-neutrality-in-the-public-service?utm_medium=email&utm_source=ncl_amplify&utm_campaign=250623-250624_national_library_treaty_booklet&utm_content=ncl-test123&nlid=test123&nhids=%25recipient.hids%25.

⁸ A. Edmondson. (1999). Psychological safety and learning behaviour in work teams. *Administrative Science Quarterly* 44(2), pp. 350-383.

⁹ *ibid.*

¹⁰ Public Service Commission. (2025). *The Future of Public Service Integrity: Te Kawa Mataaho Public Service Commission's second Long-Term Insights Briefing*. Public Service Commission.

RECOMMENDATIONS

Expand the leadership responsibilities of chief executives and the Commissioner

13. We support the requirement, stipulated in section 14 (1-1A(b)), for the Commissioner to set minimum standards of integrity and conduct, especially those relating to the public service principles (s 1A(b)). We recommend, however, the introduction of an additional stipulation, making reference to NZBORA, for example:
 - a. Section 14 (1A) (c): the New Zealand Bill of Rights Act.

14. Similarly, we support the provision that chief executives are responsible for: *“upholding the public service principles when carrying out their responsibilities and performing their functions”* (s 12 2(a)). In parallel with point 13 above, we recommend extending the principal responsibilities of chief executives of departments and departmental agencies to include an additional requirement to ensure adherence to NZBORA, for example:
 - a. Section 11A (1 (k)): ensuring compliance with the New Zealand Bill of Rights Act.

15. The key justification for this is the sustaining function that NZBORA serves in our democratic system.

16. The FPSI briefing paper drew necessary attention to a growing *“retreat from democracy,”* that is becoming increasingly evident in New Zealand.¹¹ Briefly, two concerning examples include:
 - a. The inaugural Ipsos Populism Survey conducted in New Zealand in 2024, showed that 54% of respondents agreed that *“to fix New Zealand, we need a strong leader willing to break the rules”* (surpassing the global average of 49%).¹²

 - b. A report on social cohesion authored by Shamubeel Eaqub in April of this year found that 32% of respondents stated that a good or very good way to govern New Zealand would be *“having a strong leader who does not have to bother with parliament or elections”*.¹³

¹¹ Public Service Commission. (2025). *The Future of Public Service Integrity: Te Kawa Mataaho Public Service Commission’s second Long-Term Insights Briefing*. Public Service Commission.

¹² Ipsos. (2024). *Populism: Ipsos Global Advisor*. Ipsos.
https://www.ipsos.com/sites/default/files/ct/news/documents/2024-04/ipsos%20Global%20Advisor%20-%20Populism%20%28April%202024%29_1.pdf.

¹³ S. Eaqub. (2025). *Social cohesion in New Zealand*. The Helen Clark Foundation.

17. We agree entirely with the Public Service Commission that the emerging *retreat from democracy* presents a context in which it is vital that key pillars of our democratic system are strengthened, to counteract democratic backsliding and provide a positive vision for the future of our democratic system.¹⁴
18. We suggest that efforts to strengthen the NZBORA would contribute helpfully to this aspiration. The rights enshrined by the NZBORA are among the key sustaining features of our democracy, since they legally enable the right to engage freely, openly and autonomously with our political system. Reaffirming these rights would provide a useful bulwark against democratic backsliding, as well as strengthening critical civil liberties, including freedom of speech.
19. We commend the articulation, found at the beginning of the bill, that one of the two key purposes of the public service is that it: *“supports constitutional and democratic government and acts with a spirit of service to the community and in accordance with the law”* (s 11(b)). Including a specific stipulation for individuals in key positions of leadership to demonstrate compliance with NZBORA would provide additional support to this purpose statement, especially to support *democratic government*, and to work *in accordance with the law*. Stipulating compliance as a requirement would provide an incentive for leaders to ensure that their departments operate in ways that are consistent with the rights enshrined within NZBORA, and likewise disincentivise breaching those rights.

Strengthen accountability mechanisms for key leadership roles, including chief executives and the Commissioner

20. Whilst we generally support the inclusion of enhanced responsibilities for key leaders in the public service, we recommend the introduction of corresponding accountability mechanisms that will ensure these expectations are met, including for the leadership the Public Service Commission, and especially in relation to breaches of NZBORA.
21. There is reason to believe that, despite obligations, chief executives are not currently upholding critical obligations that are incumbent on them. For example, chief executives are responsible

¹⁴ Public Service Commission. (2025). *The Future of Public Service Integrity: Te Kawa Mataaho Public Service Commission’s second Long-Term Insights Briefing*. Public Service Commission.

to “create environments in which people speak up about possible issues/wrongdoing.”¹⁵ Yet, recent insight from the Public Service Census¹⁶ showed that:

- a. Only 70% of respondents agreed or strongly agreed with the statement: “I feel safe to speak up about wrongdoing or inappropriate behaviour in the workplace.”
 - b. Only 52% of those public servants who had experienced bullying and harassment in their role reported it.
 - c. Only 14% of those who *did* report their concerns agreed that the situation had been resolved satisfactorily.
 - d. The primary source of bullying and harassment within the public service was “a current or previous manager or superior.”
22. This reflects concerns that a number of public servants have shared with us, such as instances where chief executives have known about and failed to act on, or at times even enacted themselves, bullying behaviours.
23. Together, this evidence suggests that the work environment has become deleterious for many public servants, and an unacceptably large minority feels unable to voice concerns.
24. Accountability procedures must be put in place to address such failures of leadership and improve compliance with important responsibilities. Without accountability protocols, there is no means of ensuring that the responsibilities desired of leadership are met in practice, and no reason to believe the situation might improve.
25. As an extension of this, if our previous recommendation were adopted, managers and chief executives would become responsible for ensuring their staff had their rights deriving from NZBORA protected and upheld. In accordance with this recommendation, we also suggest the implementation of accountability measures to guarantee this new responsibility for public service leaders.

¹⁵ Public Service Commission. (2025). *The Future of Public Service Integrity: Te Kawa Mataaho Public Service Commission’s second Long-Term Insights Briefing*. Public Service Commission.

¹⁶ New Zealand Government. (2025). *Te Taunaki Public Service Census*. New Zealand Government. <https://www.publicservice.govt.nz/assets/Census/Public-Service-Census-System-Report.pdf>.

Strengthen and expand 'Speaking Out' mechanisms

26. Evidence from the Public Service Census cited above suggests that existing mechanisms for speaking up are insufficient. We therefore propose two key recommendations for alterations to the 'Speaking Out' process, and recommend integrating these into the bill, for example with an additional clause in section 12 (2):
 - a. Section 12 (2 (c)): ensuring processes for speaking out and protected disclosures that comply with the minimum standards set out by the 'Speaking Out' guidelines.
27. More specific guidance, for example through regulatory advice, could add clarification to the enactment of this stipulation, in accordance with two key items:
 - a. First, we recommend the expansion of the scope of legitimate grounds for protected disclosures, to include breaches of the Public Service Act 2020, inclusive of the recommendations made above. These recommendations should also allow for reporting concerns about Continuing Professional Development (CPD). This would strengthen procedures of natural justice and the natural rights of individual public servants within the system.
 - b. Second, we recommend strengthening the 'Protected Disclosure' channel for speaking up, by enhancing and resourcing an independent mechanism for public servants to report breaches of the Public Service Act 2020, through processes that are external to reporting lines within their own departments.
28. These recommendations are consistent with the intentions described by the Public Service Commission in the FPSI briefing paper, to *"increase the overall channels available for reporting possible integrity breaches."*¹⁷
29. One entry point already identified for Speaking Up is the *"informal"* approach. A guiding question to support this is *"I can raise a question in an open forum, such as at a team meeting or staff talk."*¹⁸ Yet, we have heard from increasing numbers of public servants that they do not feel free to do this.
30. Many of the concerns raised with us have related to CPD contexts – either to content that seems to conflict with the public service principle of political neutrality, or to an environment in which

¹⁷ Public Service Commission. (2025). *The Future of Public Service Integrity: Te Kawa Mataaho Public Service Commission's second Long-Term Insights Briefing*. Public Service Commission.

¹⁸ Public Service Commission. (n.d.). *Acting in the Spirit of Service: Speaking Up.* Public Service Commission. <https://www.publicservice.govt.nz/guidance/model-standards-speaking-up-in-the-public-sector>.

they do not feel free or safe to question or challenge the information to which they are exposed, or both. Without the ability to question or challenge the information provided, CPD risks slipping into indoctrination. Further, it seems reasonable to expect that the CPD that is offered to public servants be consistent with the public service principles. We therefore recommend that Speaking Out mechanisms be expanded to encompass CPD, to enable public servants to raise concerns about those sessions where they emerge.

31. Further, as mentioned above, the Public Service Census identified that only 52% of the public servants who experienced bullying and harassment in their role reported it, and among those who did report, only 14% felt that their concerns had been resolved satisfactorily. The most common reasons for not reporting bullying behaviour were: *“I did not think action would be taken”* (52%) and: *“I was worried about possible retaliation or reprisals”* (48%).¹⁹
32. These sentiments are in direct contrast with the ideals described in the Public Service Commission’s Model Standards for Speaking Up.²⁰ Two key elements of these standards are:
 - a. *“Making sure processes are robust: taking concerns seriously when they are raised, by ensuring systems are in place for monitoring, reporting, investigation, and effectively communicating with those involved in a report or disclosure.”*
 - b. *“Keeping people safe: ensure they can feel safe in making reports, trust that organisations will act upon them, and ensure that organisations provide tailored and dedicated support and protections to staff to keep them safe from reprisal.”*
33. This contrast reveals that the systems and protocols that are currently in place are not successfully meeting the need for which they are designed.
34. The standards for Speaking Up recommend four key processes, channels, or entry points:²¹
 - a. Informal: a trusted individual within the organisation, as well as the ability to raise questions in open team or staff forum.
 - b. Through the line: a formal complaint to a manager or supervisor.
 - c. Directly to the Chief Executive.

¹⁹ New Zealand Government. (2025). *Te Taunaki Public Service Census*. New Zealand Government.

<https://www.publicservice.govt.nz/assets/Census/Public-Service-Census-System-Report.pdf>.

²⁰ Public Service Commission. (n.d.). *Acting in the Spirit of Service: Speaking Up*. Public Service Commission.

<https://www.publicservice.govt.nz/guidance/model-standards-speaking-up-in-the-public-sector>.

²¹ *ibid.*

d. Protected disclosure: a range of external authorities.

35. These channels enable three key pathways for ensuring that breaches are addressed (since the informal approach would be unlikely to result in any remedying action): an immediate superior, a more senior superior, or an external approach.
36. An important insight from the Public Service Census, mentioned above, is that the most common source of bullying and harassment within the public service was “*a current or previous manager or superior.*”²² We have already mentioned concerns raised with us regarding public service chief executives and managers being complacent about, or actively involved in, bullying of staff. Given this, it is necessary to consider alternative approaches for public servants to speak out about concerns.
37. We therefore recommend that the fourth of the currently available channels (protected disclosure) be enhanced and made more accessible for public servants, enabling them to raise concerns through external authorities outside of their direct reporting lines. This enhancement would ensure that any concerns raised remained anonymous, and also that the risk of reprisal or repercussion would be reduced – both desired features of the current Speaking Out approaches.²³
38. Importantly, this would require additional resourcing to enable these external channels to function optimally, and would also require more explicit guidance for public servants about how to engage with these channels. We suggest that this would be a worthwhile investment.

²² New Zealand Government. (2025). *Te Taunaki Public Service Census*. New Zealand Government. <https://www.publicservice.govt.nz/assets/Census/Public-Service-Census-System-Report.pdf>.

²³ Public Service Commission. (n.d.). *Acting in the Spirit of Service: Speaking Up.* Public Service Commission. <https://www.publicservice.govt.nz/guidance/model-standards-speaking-up-in-the-public-sector>.