



PARLIAMENTARY
COUNSEL OFFICE

TE TARI TOHUTOHU
PĀREMATA

Strategic Intentions

for the period

1 July 2015 to 30 June 2019

■ 2015
to 2019

Strategic Intentions of the
Parliamentary Counsel Office
Te Tari Tohutohu Pāremata
for the period 1 July 2015
to 30 June 2019

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Chief Parliamentary Counsel statement of responsibility

In signing this statement, I acknowledge that I am responsible for the information on strategic intentions for the Parliamentary Counsel Office. This information has been prepared in accordance with sections 38 and 40 of the Public Finance Act 1989.

Signed:



David Noble

Chief Parliamentary Counsel

Date: 20 November 2015

Ministerial statement of responsibility

I am satisfied that the information on strategic intentions prepared by the Parliamentary Counsel Office is consistent with the policies and performance expectations of the Government.

Signed:



Hon Christopher Finlayson

Attorney-General

Date: 20 November 2015

Introduction from the Chief Parliamentary Counsel

Over the course of the period covered by this Strategic Intentions document (SI), the Parliamentary Counsel Office (PCO) will continue to deliver its two outputs of Law Drafting and Access to Legislation so that we are able to deliver the Government's legislation programme and ensure that all current legislation is readily and freely accessible to the public. The PCO delivers some core services to the Government, Parliament, the Judiciary, and the public. Consequently, we do not expect fundamental changes to what we deliver and the way we deliver those services over the period. However, the PCO continuously looks for ways to enhance these services and to contain or reduce our costs, with particular focus on the following areas.

Legislation Act 2012

The PCO intends to update and incorporate the Interpretation Act 1999 (currently administered by the Ministry of Justice) into the Legislation Act 2012. The PCO will then take over responsibility for administering those provisions once incorporated.

Access to subordinate instruments (not drafted or published by PCO)

The PCO has established a project team to develop the PCO's information and business systems so that all subordinate legislation (whether drafted by the PCO or other agencies) is available on the New Zealand Legislation (NZL) website. The Access to Subordinate Instruments Project (ASIP) will provide a single, official, public source for all New Zealand legislation. This project is part of the PCO's continuing programme to improve access to legislation in New Zealand and is in response to a directive from Cabinet to investigate a means for ensuring access to all New Zealand legislation. This follows the PCO's recent discussions with the Regulations Review Committee over its inability to easily identify and track disallowable instruments that are not drafted and published by the PCO. It also responds to issues identified in the reports of both the Whey Protein Concentrate Contamination Incident Inquiry and the Productivity Commission into regulatory institutions and practices in New Zealand. It also responds to one of the challenges raised by the reviewers in the recent Performance Improvement Framework (PIF) report of the PCO.

Legislation Design and Advisory Committee

The Government agreed with a recommendation from the PCO and the Ministry of Justice to revive and merge the Legislation Design Committee with the Legislation Advisory Committee (LAC) into a Legislation Design and Advisory Committee (LDAC). The changes are designed to address concerns that the LAC is often brought in too late in the process to resolve problems in the basic framework and architecture of legislation or to identify potential rule of law issues; and significant time, resources, and effort are required in providing LAC submissions to select committees—at too late

a stage in the process to affect legislative design. The LDAC has now been established, has held meetings in July, August, and October 2015, and is actively working with departments and agencies to assist them in designing major legislative proposals and to maintain the currency of the revised LAC Guidelines (2014 edition). The PCO is providing the committee with policy and secretariat support, based at the PCO, from within its current appropriation. Further development of this service and the cost pressures associated with any growth in its provision will need to be kept under review to ensure that it does not adversely affect the financing of the PCO core statutory functions.

New Zealand Legislation (NZL) system

The PCO intends to make further enhancements and simplification of the NZL system to make it easier to use and maintain, and to provide better value for money and lower cost of ownership to the Crown. The PCO will, in 2016, increase the coverage of “official” status to the legislation contained on the NZL website by declaring official the HTML versions of legislation bearing the New Zealand Coat of Arms, once the process of checking the display and content of that database has confirmed that this is feasible. The PCO, while continuing to drive down the costs of operating the system, will invest capital and other resources in the maintenance and development of the drafting and publishing system that underpins the NZL website, to increase the coverage and scope of legislation contained within those databases and to ensure sustainability and endurance of free access to legislation for New Zealanders. ASIP, mentioned above, will also have significant development and cost implications for the NZL system, which the PCO will manage over the four-year period.

Pacific Island support

With funding assistance from the Ministry of Foreign Affairs and Trade (MFAT) Aid Programme, currently available until 30 June 2016, the PCO’s Pacific Island desk will continue to provide legislative drafting assistance, training, and mentoring to officials responsible for drafting legislation in Pacific Island nations. The assistance is predominantly focused on the Realm of New Zealand (Cook Islands, Tokelau, and Niue) but is widening to include assistance sought by other Pacific Island nations as resources permit, and to agencies that provide assistance to Pacific Island nations (eg supporting the United Nations Development Programme’s work in Fiji).

MFAT has engaged consultants to evaluate the operation of the desk, assessing the value of the assistance provided to date, and informing further development of the desk. The evaluation is due to be completed in 2015.

The PCO will continue to work with MFAT and other agencies to secure a continuing and sustainable funding arrangement to meet the need for this highly valued service, given the benefits not only to good governance and the rule of law in those nations but also to New Zealand within the Pacific region.

Working with partners to improve access to legislation in New Zealand

The PCO will continue to work with the New Zealand Legal Information Institute (NZLII), National Archives, the Office of the Clerk, and universities in New Zealand to provide collections and databases of historic Bills, Statutory Regulations, and orders as well as the digest of the Regulations Review Committee decisions and reports. The PCO will also work with the Office of the Clerk and other agencies to improve the presentation of, and access to, draft legislation introduced into the House of Representatives.

Improving the quality of New Zealand legislation

The PCO will continue to keep drafting quality standards under review. A review of the quality assurance processes was completed in July 2015 and a report presented to the Senior Management Team in August 2015. The review found that overall the PCO was producing good quality legislation but the quality assurance system was not functioning as well as it could. The Senior Management Team will determine how, and if, the recommendations can be implemented and with what priority. Consideration will also be given to increasing the use of standard clauses in legislation and the use of software products to enhance the readability of legislation.

Performance Improvement Framework

The PCO is developing a plan to address matters raised in the PIF review of the office and will work with the central agencies, given their response to the review, to deliver improvements to the programming and preparation of Government legislation.

Summary

This document sets out the strategic objectives the PCO intends to achieve or contribute to over the next four years. Delivering this programme of substantial work will no doubt present us with a significant challenge. I have every confidence that the drive, determination, and professionalism of the PCO's people will ensure that we will meet this challenge over the period of this SI and that the PCO will continue to produce well-drafted and readily accessible legislation for New Zealand.

Nature and scope of functions

The PCO is constituted as a separate statutory office by the Legislation Act 2012 (the 2012 Act). The PCO is under the control of the Attorney-General or, if there is no Attorney-General, the Prime Minister.

The PCO is not part of the Public Service under the State Sector Act 1988, and thus is not under the direct control of the State Services Commissioner. However, the PCO is subject to certain provisions of the State Sector Act 1988, including those that relate to the setting and enforcement of minimum standards of integrity and conduct.

Vision

The PCO's vision is to be a leading legislative drafting and publishing office within the Commonwealth.

Mission

Its mission is to provide impartial, high quality legislative drafting services and advice, and to enable easy and free access to the laws of New Zealand.

PCO outputs

The PCO's multi-category appropriation consists of two distinct but complimentary outputs—Law Drafting Services and Access to Legislation—that deliver different parts of the same service to the Government and Parliament and the wider New Zealand public. The PCO will continue to deliver those two outputs so that we are able to deliver the Government's legislation programme and ensure that all current legislation is readily and freely accessible to the public.

The nature and scope of the functions performed by these outputs are set out below.

Law Drafting Services

Under the 2012 Act, the PCO is responsible for the drafting of Government Bills and Legislative Instruments. This includes drafting amendments to Bills required by select committees and by Ministers at the committee of the whole House stage. Bills, but not Legislative Instruments, administered by the Inland Revenue Department (IRD) are drafted by that department.

The PCO is also responsible for developing three-yearly statute law revision programmes in time for each new Parliament. The purpose of revision is to rationalise

and more logically arrange statutes and sections within them, remove inconsistencies and overlaps, repeal obsolete and redundant provisions, and modernise expression, style, and format. In the first revision Bill to be drafted, the PCO is primarily focused on tackling New Zealand's many contract and commercial statutes. These are largely older Acts that are expressed in language that is out of date and many provisions have been repealed. Their consolidation in a modern form will make them more accessible and reduce regulatory costs for business.

The law drafting services provided by the PCO are part of the process of implementing new policy or changes to policy through the enactment of legislation. We are initially involved with new legislation during the development of the Government's legislation programme, which establishes the priorities for development of the policy for, and drafting of, proposed legislation.

We work closely with the Legislation Coordinator, a Cabinet Office staff member, who plays a central role in this process.

The PCO also examines and reports on local Bills and private Bills. This involves providing drafting advice and assistance (including the preparation of draft Bills) to the promoters of the Bills and their legal advisers. We also examine and draft Members' Bills if directed to do so by the Attorney-General.

The PCO also provides advice on the drafting of disallowable instruments that are not drafted by the PCO.

The 2012 Act provides for the disallowance of certain instruments made under enactments. All legislative instruments stand referred to the Regulations Review Committee and must be presented to the House for scrutiny by that committee. The PCO arranges this without the involvement of the instructing department or agency.

The PCO, currently with funding from the MFAT Aid Programme up to 30 June 2016, provides legislative drafting assistance, training, and mentoring to officials responsible for drafting legislation in Pacific Island nations.

Access to Legislation

Under the 2012 Act, the PCO is also responsible for supplying copies of Bills and Supplementary Order Papers (SOPs) to the House, and for the publishing and sale of Acts of Parliament (including reprinted Acts), legislative instruments (including reprinted Legislative Instruments), and reprints of Imperial enactments and Imperial subordinate legislation.

The New Zealand Legislation (NZL) system is a complete drafting and publishing system. The drafting system is also available to the Office of the Clerk and Inland Revenue Department drafting staff. The system enables the PCO to provide public access to up-to-date official legislation on line on the NZL website at www.legislation.govt.nz

and in printed form. The PCO ensures that New Zealand legislation (including Bills and SOPs) continues to be readily accessible to the public in a timely manner and in an accurate and authoritative form. It is fundamental to the effective operation of the rule of law in a democracy that the people governed by the law have access to the rules by which they are governed. Continual maintenance and development of the system that is used to draft and publish New Zealand legislation will ensure that better access is provided.

The PCO also provides a website at disclosure.legislation.govt.nz, on a trial basis, that publishes legislative disclosure statements (these are departmental documents that provide information about the development and content of legislation proposed by the Government; they seek to assist the parliamentary and public scrutiny of a Bill or SOP). Disclosure statements are provided on this website for all Government Bills (with limited exceptions) and substantive SOPs introduced or released since 29 July 2013. This will be extended at a later date to include legislative disclosure statements for disallowable instruments drafted by the PCO.

The PCO provides the LDAC website www.ldac.org.nz. The LDAC terms of reference include the provision of advice to departments on the development of legislative proposals and on drafting instructions to the PCO. The PCO maintains the website after taking over responsibility for it following the merging of the Legislation Advisory Committee into the new LDAC.

Strategic direction

The PCO is a non-Public Service department dedicated to drafting and publishing legislation.

The PCO's strategic objectives are to provide:

- high-quality legislative drafting services; and
- ready access to New Zealand legislation.

To achieve those strategic objectives, the PCO's goals in the short-to-medium term are:

- (1) to provide professional excellence in drafting legislation and maintaining effective external relationships; and
- (2) to provide easy and free access to legislation.

The PCO will achieve the first goal by:

- maintaining capability through appropriate succession planning
- training and development in drafting of legislation
- providing training and seminar programmes to instructing departments
- enhancing the provision of legislative drafting assistance, training, and mentoring to Pacific Island nations
- developing and delivering triennial programmes of statute law revision.

The PCO will achieve the second goal by:

- working with representatives of key users of the NZL website to enhance access to the legislation and other information made available through the NZL website and its associated websites
- collaborating with other agencies to provide a trusted central source of authoritative and official New Zealand legislation
- extending the disclosure statements website (disclosure.legislation.govt.nz) to include regulatory disclosure statements for disallowable instruments.

Performance Improvement Framework (PIF)

The PCO will also develop a plan to address the proposals contained in the formal PIF review (report released in November 2014) which, with support from the central agencies and other key sectoral agency leads, the Government supports and adopts. The PIF four-year excellence horizon has identified a number of particular challenges. The PCO will have succeeded in meeting these challenges if, by 2018, it:

- has led the development of a clear strategy for modernising and simplifying New Zealand's legislative framework
- has made significant progress in revising legislation to eliminate obsolete, redundant, and inconsistent laws
- is providing effective oversight of the drafting of all legislation in New Zealand, including tertiary legislation drafted within government departments and agencies
- is providing comprehensive training and guidance in respect of the legislative process for all of its customers
- has an interactive website that enables users not only to access official legislation but to link seamlessly with other relevant information and to incorporate the legislation in their own applications.

In order to be able to achieve these high level goals the PCO will have made further improvements to the way it operates as an office. In particular:

- it will speak with a single unified voice when engaging with its customers
- there will be greater consistency and clarity of style and expression in its drafting
- the risks of insufficient capacity of experienced drafters to meet demand will have been addressed.

To effect these improvements the PIF reviewers recommended that the PCO considers:

- developing its operating model to reflect a professional services model and defining the required behaviours and competencies needed to give effect to that model so that there is a clear culture of "one office" and "one voice"
- improving its focus on efficiency of process through the use of effective time recording and management tools and greater use of standard drafting templates
- an active programme of secondments to and from instructing agencies and other Commonwealth drafting offices to provide development and training for its staff as well as building better understanding and knowledge within other agencies

- more proactive management of the risks created by unforeseen peaks in demand through the use of a wider range of drafting options. Possibilities to consider are the accreditation of legal counsel within major instructing agencies; preparation of first or departmental drafts (well-constructed drafting instructions would still be required); and encouraging the greater use of consultation or exposure drafts
- succession planning for all key positions, particularly to cover expected retirements and promotions.

In order to see whether we are making progress in achieving our desired future state, the PCO will:

- (1) build those relevant initiatives and changes into our strategic and operational business plans and where appropriate in individuals' performance plans
- (2) conduct reviews of how we are tracking on a quarterly basis
- (3) discuss with SSC arrangements for any follow up PIF review in light of changes being made to the process by the central agencies.

Managing functions and operations

The following functions and operations support the PCO in achieving its strategic objectives.

Strategic planning

Each year, the PCO's Senior Management Team holds a one-day strategic planning session to set its direction for the short-to-medium term. It reviews existing strategic plans relating to workforce, access to legislation, financial management, and property, and makes strategic choices relating to the delivery of its two strategic objectives—providing high-quality legislative drafting services and ready access to New Zealand legislation.

Annual business planning and budgeting

Each business unit and group within the PCO develops an annual business plan that links to the PCO's strategic plan, goals, and mission. These plans also prioritise the work to be carried out, identify additional personnel or financial resources that may be required, and identify any major risks.

Every three months, the Senior Management Team is provided with progress reports and the PCO's medium-to-high-level risks are reviewed and updated as required.

Equal employment opportunities (EEO)

EEO has been incorporated into a number of policies and processes to ensure consistency and to ensure that EEO is integrated into everyday business. An example of the PCO's commitment to increasing female representation at senior levels is that 50% of its managers are female and all its Audit and Risk Committee members are female. We will continue to meet our responsibilities as an equal employment opportunity employer and will seek to improve representation of under-represented groups within the PCO and its governance.

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