

Chair
Cabinet Social Development Committee

MODERNISING POLICE LEGISLATION - UPDATE ON PROGRESS

Purpose

1. This memorandum provides an interim progress report on work to review and modernise the legislative framework for New Zealand Police.

Executive summary

2. Solid progress has been achieved during the first nine months of the Police Act Review. Upcoming milestones include publication of a public discussion document in June 2007 (*Policing Directions in New Zealand for the 21st Century*), with legislative proposals scheduled for Cabinet consideration in September 2007. A bid for a Policing Bill has been prepared for this year's Legislation Programme, seeking a level of priority to allow for drafting instructions to be issued to Parliamentary Counsel Office in November 2007.

Background

3. On 6 March 2006, Cabinet agreed to a proposal to initiate a comprehensive review of the legislative arrangements for policing, leading to a 'first principles' rewrite of the Police Act 1958 and Police Regulations 1992 [CAB Min (06) 7/5 refers]. An important context for this decision was the fact the key legislation governing New Zealand Police has not been updated significantly in nearly half a century. This places it at odds with many overseas jurisdictions, where police statutes have been refreshed in recent decades. Having been amended more than 25 times, to help address major changes in the wider public sector environment as well as within policing, the 1958 Act also has some critical inconsistencies.
4. When agreeing to the review, Ministers noted that to allow for key issues to surface and for ideas to be tested, the best approach was likely to involve a carefully-phased process over a two or three year period. I was invited to report to Cabinet Social Development Committee at regular intervals, to update Ministers on the review's progress [CAB Min (06) 7/5]. This paper provides a progress report after the first nine months of the project.

Overview of progress to date

Establishment of a multi-disciplinary project team

5. To create the conditions for a successful review, an early priority was to form a team to provide dedicated staffing throughout the life of the project. Led by an experienced senior officer, a small group of Police officials has been assembled, with backgrounds in areas such as constitutional law, criminology and industrial relations. A relationship manager position was also established to offer ongoing liaison between the Police Act Review team and internal and external stakeholders. To help foster trust with the union group that represents the bulk of Police staff, a secondee from the Police Association has also been included as a full member of the project team. This multi-disciplinary team is being complemented by personnel with specific skills, on fixed-term placements, as required. A State Services Commission (SSC) intern has also been attached to the Police Act Review team over the summer months to provide additional project support.

Putting in place advice and oversight mechanisms

6. To support the review, steps were taken to convene two advisory and oversight groups. A Steering Committee was established to support the Commissioner of Police, involving the heads of the Ministry of Justice, SSC, Law Commission and the Ministry of Social Development (to offer a cross-sectoral perspective). The Chief Executive Steering Committee brings together a range of key opinion leaders and acts as a reference group for the review exercise. It has met twice during the first nine months of the project, and is proving itself to be a valuable guidance mechanism.
7. To provide for regular streams of advice and monitoring of the project team's progress, a standing Police Act Review officials group has also been established. Its membership shadows that of the Chief Executive Steering Committee, with additional members from the Department of Prime Minister and Cabinet [DPMC], Treasury, Crown Law Office and Department of Corrections. The officials group meets monthly, peer reviews major written products before publication, and offers *ad hoc* support to the core project team.

Confirming the scope of the review

8. Another early priority was to confirm the scope of the review. The mandate provided by Cabinet was broad-ranging [CAB Min (06) 7/5], signalling a desire to start a national conversation about New Zealanders' expectations of policing. The 'first principles' nature of the review is designed to encourage debate, "allow[ing] New Zealanders to articulate what kind of police service they want, and to give them a direct voice in shaping the kind of legislative arrangements that can help deliver that style of policing" [SDC (06) 9]. To help provide focus, a formal scope statement was prepared after taking soundings from the Ministry of Justice, DPMC, SSC, Treasury, the Police Complaints Authority and Law Commission; as well as the two main groups which represent Police staff, the New Zealand Police Association and Police Managers' Guild.
9. There was a pleasing level of consensus on the scope statement, including agreement that some issues would potentially need to be taken forward through other channels, as part of a wider development programme (e.g., exploring the future role of organisational units such as the Police Prosecution Service). Formalising the scope of the Police Act Review also provided a welcome opportunity to communicate some features of policing in New Zealand which are foundational, and are not proposed to be re-examined during the review. These cornerstone features were agreed to be:
 - Continuing the model of a national police service which is centrally funded (vs. allowing for the emergence of regional or local police forces);
 - Maintaining a largely unarmed police service (vs. officers routinely carrying guns);
 - Upholding a tradition of constabulary independence (vs. allowing for the possibility of political direction on operational matters).

Stimulating thinking about key topics

10. After validating the formal scope statement, it became possible to commence the first of what is planned to be three phases of public consultation during the Police Act Review. Beginning in June 2006, the project team prepared a linked series of eight *Issues Papers*. These were designed to 'test the waters' and generate discussion on significant topics, so as to identify any general areas of agreement around how they could be presented in later phases of the Police Act Review. The topics selected for the *Issues Papers* were:

- Principles;
- Governance and accountability;
- Employment arrangements;
- Conduct and integrity;
- Community engagement;
- Powers and protections;
- Relationships;
- Administration.

11. The Police Act Review *Issues Papers* were widely publicised and made available to a range of individuals, agencies and interest groups. Approximately 250 unique responses to these documents have been received, with some being consolidated submissions responding to all eight *Issues Papers*. Responses have come from large sector agencies (e.g., the Department of Corrections), Crown entities (e.g., the Office of the Privacy Commissioner), stakeholder organisations (e.g., the Police Association), various groups (e.g., community law centres) and individual members of the public.

Creation of a stand-alone Police Act Review website

12. Copies of the *Issues Papers* and other significant documents relating to the review have been uploaded to a dedicated website (www.policeact.govt.nz). The site has attracted more than 15,500 hits since it was activated in April 2006, and is a useful means of raising awareness about the Police Act Review. It also allows for online responses to the *Issues Papers*, and has proven to be the most popular mode for making submissions.

Targeted public research

13. A discrete piece of research on New Zealanders' expectations of policing has also been commissioned to inform the review. The study is being conducted by an independent research company, following a public tender process in mid 2006. It is primarily qualitative research, with an emphasis on in-depth focus groups; although some Police-related questions have been included in omnibus national household surveys, which will allow for some quantitative findings. The targeted research is one of several methods being used during the Police Act Review to access the views of the general public about what sort of police service they expect and want, both now and in the future.

Engagement with specific communities of interest

14. In addition, a number of overseas policing experts are helping to inform work on the Police Act Review. Over time, there may be merit in formalising this arrangement; at present, it is operating informally based on existing connections between Police officials and academics specialising in policing-related areas, both internationally and nationally.
15. A platform for some of these exchanges has been a series of four discussion forums which have been held in conjunction with Victoria University of Wellington's School of Law, School of Government and the Institute of Criminology, and Auckland University of Technology's School of Social Sciences. The discussion forums brought key thinkers together to debate some basic topics within policing, such as community engagement and accountability, attracting attendees from around New Zealand as well as overseas (e.g., the University of New South Wales). Insights have also been gained from a special symposium on the future of policing, which was co-hosted by Victoria University of Wellington in late November 2006, and involved a number of international academics, police, and senior figures from the private investigators and security guards industries.

Comment

16. Solid progress has been achieved during the first nine months of the Police Act Review.

It is a large and complex undertaking, which necessarily reaches far and wide in seeking to identify the best form of legislative framework for a contemporary police organisation. The small project team leading the review has been well-supported, with valuable input provided by a number of agencies. Proactive steps have also been taken to benchmark against, and learn lessons from, other major law reform exercises; for instance, the Immigration Act Review led by the Department of Labour. Coming to the end of its first full year of work, then, there is reason to be confident about the trajectory of the project.

17. At a political level, the willingness of parliamentary colleagues to take a non-partisan approach to the review, at least in these early stages, has been encouraging. In response to an invitation extended to the leaders of all parliamentary political parties, briefings on the Police Act Review have been held with almost all parties' nominated law and order spokespeople. The meetings have been positive, and there seems to be a recognition that Police's legislation should command the broadest possible cross-party support. I look forward to this constructive approach continuing as the Police Act Review progresses.

Upcoming milestones

18. Looking ahead, the next major project milestone will be the publication of a discussion document in June 2007, called *Policing Directions in New Zealand for the 21st Century*. This discussion document will form the basis of the second and most far-reaching phase of public consultation during the review. Submissions will be called for over a two month period, and officials will hold a series of public meetings to seek direct feedback. In parallel with the public consultation process, the Police Act Review team will meet with a number of key stakeholders to further test possible options for new policing legislation. Officials will also be available to meet with particular individuals, groups or organisations, at their request, to receive feedback on any issues of concern. Feedback from the formal consultation process and subsequent meetings will then be reflected in the various policy proposals that are subsequently put forward for Cabinet consideration.
19. A forward projection of the main project milestones, with expected dates, is as follows:

Activity	Likely phasing
Discussion document completed and approved for release	By end of May 2007
Public consultation on discussion document	June-July 2007
Analyse submissions received on the discussion document	By end of August 2007
Suite of papers prepared to obtain Cabinet policy approvals	September 2007
Drafting instructions to Parliamentary Counsel Office	Early November 2007
Consultation on an exposure draft of the new Bill	Late December 2007
Cabinet consideration/approval of finalised Bill	February 2008
Introduction of new Bill to the House	Early March 2008

Financial implications

20. This paper has no direct financial implications.

Legislative implications

21. The Police Act Review is expected to result in replacement of the Police Act 1958 and Police Regulations 1992. A bid for a Policing Bill has been prepared for consideration as part of the government's 2007 Legislation Programme [CO (06) 9 refers].

Regulatory impact and compliance cost statement

22. A regulatory impact or compliance cost statement is not required at this time.

Human rights and Bill of Rights implications

23. This paper has no human rights or New Zealand Bill of Rights Act 1990 implications. One of the options for a new Police Act is that it specifies protection of human rights as one of the basic principles of policing. The implications of including such a guiding principle in the new Act will be carefully worked through in upcoming policy processes.

Gender implications

24. A gender analysis will be undertaken during the appropriate stage of policy development.

Consultation

25. Government agencies on the Police Act Review officials group (SSC, DPMC, Treasury, the Crown Law Office, the Ministries of Justice and Social Development, and the Department of Corrections), as well as population-based agencies (Te Puni Kōkiri, the Ministries of Women's Affairs, Pacific Island Affairs and Youth Development, and the Offices of Ethnic Affairs and for Senior Citizens) were consulted on this memorandum. The Law Commission was also consulted.

Publicity

26. A media release will be prepared when the analysis of submissions on the *Issues Papers* is completed. In line with the open approach being taken to the project, and because of the public interest in the review, I also propose to make a copy of this Cabinet paper available on the Police Act Review website (www.policeact.govt.nz).

Recommendations

27. I recommended that the Cabinet Social Development Committee:
- 1 note that in March 2006, Cabinet agreed to a proposal to initiate a comprehensive review of the legislative arrangements for policing, leading to a 'first principles' rewrite of the Police Act 1958 and Police Regulations 1992
 - 2 note that solid progress has been achieved during the first nine months of the review
 - 3 note the updated timeline for the review foresees release of a discussion document (called *Policing Directions in New Zealand for the 21st Century*) in June 2007, with formal proposals for new policing legislation put forward for Cabinet consideration in September 2007
 - 4 note that a bid for a Policing Bill has been prepared for the government's 2007 Legislation Programme, seeking a level of priority that allows drafting instructions to be issued to Parliamentary Counsel Office in November 2007
 - 5 note the proposal to make this paper public through the Police Act Review website following Cabinet approval, to help raise awareness about the progress of the review



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