

Stephen Moore

From: Sarah Baddeley 9(2)(a) privacy
Sent: Wednesday, 24 October 2018 6:29 PM
To: Robert Liberona
Cc: Doug Martin; Simon Mount
Subject: SSC Inquiry Weekly report

This week the Inquiry:

- Progressed review of material provided by the Department of Conservation.
- Engaged with both NZ Customs and Maritime New Zealand regarding secondary employment
- Requested two individuals for interview under oath
- Progressed drafting the Inquiry report.
- Worked with SSC on a consolidated TOR

This coming week will see another round of Auckland based interviews (NZTA and TCIL) and further report drafting. The Inquiry is next expected in Wellington on Monday 5 November to undertake an interview under oath.

CRIs are due to provide information by this coming Friday. So far Food and Plant have provided information which was in a redacted format. They have been invited to resubmit in an unredacted format. Quality of CRIs responses continue to be a risk to timing.

It expected that the approach to subsidiaries will also be finalised and progressed.

Kind regards

Sarah

Get [Outlook for iOS](#)

Proactively released by
the State Services Commission

AGENDA

SSC Inquiry Discussion

11am, Friday 26 October
By TC – SSC to provide details

Apologies: Doug Martin

- 1 Communications
 - a Update on current issues
 - b Run sheet and briefing departments
 - 2 Report on self-evaluation across the State sector
 - a CRIs
 - b Subsidiaries
 - 3 Guidance discussion
 - 4 Draft report
 - 5 Terms of Reference
 - a Finalisation and public disclosure
- By exceptions
- 6 Update on key entities
 - a Ministry of Primary Industries
 - b DOC
 - c Ministry of Health
 - d Customs
 - e NZTA/MOT
 - 7 Other
 - a NZ Police
 - b TCIL
 - c Interested third parties/private citizens
 - 8 Themes to date/relevance to guidance being developed



Auckland T +64 9 915 1360

Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010, PO Box 7551 Wellesley Street, Auckland 1141, New Zealand

Wellington T +64 4 499 6130

Level 1, City Chambers, Cnr Johnston and Featherston Streets, Wellington 6011, PO Box 5256, Wellington 6140, New Zealand

info@martinjenkins.co.nz martinjenkins.co.nz

- a Privacy breaches
- b Attendance at public meetings/surveillance
- c Issues motivated groups
- d Investigative capability outside core enforcement agencies
- e Intelligence networks (horizontal vs vertical accountabilities)
- f Intelligence provided by third parties to support state enforcement functions
- g Assisting third party business development
- h Management and oversight within entities (including flows of information)
- i Health and safety
- j Procurement
- k Legal risk management
- l New topics to be covered
 - i Use of Cyclops Monitoring
 - ii Other private investigators engaged
- 9 Relationship with other regulatory/oversight authorities
 - a SFO
 - b Privacy Commissioner
 - c Ombudsman, PSPLA, Archives etc
 - d Inspector General of Intelligence
 - e Independent Conduct Authority





Consolidated Terms of Reference for Inquiry into the use of external security consultants **29 October 2018**

This document consolidates the Terms of Reference previously issued on 27 March 2018 and 19 June 2018, in light of the request by the Minister of Research, Science and Innovation under s 11(4) of the State Sector Act 1988 dated 3 October 2018.

For the avoidance of doubt, the State Services Commissioner has delegated his statutory powers of investigation (including the powers in ss 8, 9, 10, 11, 25 and 57-57C of the State Sector Act) to Doug Martin and Simon Mount QC for the purposes of this Inquiry.

Definition

“Crown Agencies” means the agencies listed in Appendix One.

Terms of Reference

The Inquiry will identify and report on:

1. the circumstances of, and reasons for, any engagement by Crown Agencies of external security consultants including but not limited to Thompson & Clark Investigations Limited (TCIL) and its associated companies and entities;
2. the nature and outcomes of any such engagement; and
3. the nature of the relationship between current and former employees of Crown Agencies and TCIL and its associated companies and entities.

Without limiting its scope, the Inquiry will specifically report on:

4. whether external security consultants have carried out surveillance activities directly or indirectly on behalf of any Crown Agencies and, if so:
 - a. the nature of any such surveillance, either generally or relating to specific individuals;
 - b. the extent to which Crown agencies requested that surveillance, and/or received information relating to that surveillance;
 - c. any actions undertaken as a result of information received;
5. any internal or external advice to Crown Agencies relating to or produced as a result of engaging external security consultants and/or any monitoring undertaken, including but not limited to advice relating to potential disclosure of the existence, nature or circumstances of any surveillance undertaken;
6. governance and reporting mechanisms (or lack thereof) relating to the engagement of security consultants; and
7. whether or not, and the extent to which, any matters identified by the Inquiry amounted to a breach of the State Services' Standards of Integrity and Conduct (Standards) or would have amounted to a breach if the Standards had applied.

The Inquiry may also make recommendations in relation to any matter contained in its report.

The Inquiry will not consider, report on, or make recommendations relating to:

- any individual entitlement or complaint, such as those relating to a specific insurance claimant;
- actions taken to resolve specific insurance claims, except insofar as those actions related to the use of external security consultants;
- general operational performance or governance arrangements.

Proactively released by
the State Services Commission

Appendix 1: List of Crown Agencies within scope

Public Service Departments

Ministry of Business, Innovation, and Employment
Department of Conservation
Department of Corrections
Crown Law Office
Ministry for Culture and Heritage
New Zealand Customs Service
Ministry of Defence
Ministry of Education
Education Review Office
Ministry for the Environment
Ministry of Foreign Affairs and Trade
Government Communications Security Bureau
Ministry of Health
Inland Revenue Department
Department of Internal Affairs
Ministry of Justice
Land Information New Zealand
Te Puni Kōkiri, Ministry of Māori Development
Ministry for Pacific Peoples
Ministry for Primary Industries
Department of the Prime Minister and Cabinet
Serious Fraud Office

Ministry of Social Development
Statistics New Zealand
Ministry of Transport
The Treasury
Ministry for Women
Ministry for Vulnerable Children, Oranga Tamariki
New Zealand Security Intelligence Service
State Services Commission
Te Kāhui Whakamana Rua Tekau mā Iwa—Pike River Recovery Agency

Departmental Agency

Social Investment Agency

Non-Public Service Department

Parliamentary Counsel Office

Crown Agents

Accident Compensation Corporation
Industrial Research Limited / Callaghan Innovation
Civil Aviation Authority
Auckland District Health Board
Bay of Plenty District Health Board
Canterbury District Health Board
Capital and Coast District Health Board
Counties Manukau District Health Board
Hawke's Bay District Health Board
Health Promotion Agency

Hutt Valley District Health Board
Lakes District Health Board
MidCentral District Health Board
Nelson Marlborough District Health Board
Northland District Health Board
South Canterbury District Health Board
Southern District Health Board
Tairāwhiti District Health Board
Taranaki District Health Board
Waikato District Health Board
Wairarapa District Health Board
Waitemata District Health Board
West Coast District Health Board
Whanganui District Health Board
Earthquake Commission
Education New Zealand
Energy Efficiency and Conservation Authority
Environmental Protection Authority
Health Quality and Safety Commission
Health Research Council of New Zealand
Housing New Zealand Corporation
Maritime New Zealand
New Zealand Antarctic Institute
New Zealand Blood Service

Proactively released by
the State Services Commission

Fire and Emergency New Zealand
New Zealand Qualifications Authority
New Zealand Tourism Board
New Zealand Trade and Enterprise
New Zealand Transport Agency
New Zealand Walking Access Commission
Pharmaceutical Management Agency
Real Estate Authority
Social Workers Registration Board
Sport New Zealand
WorkSafe New Zealand
Tertiary Education Commission

Autonomous Crown Entities

Arts Council of New Zealand Toi Aotearoa
NZ on Air (Broadcasting Commission)
Government Superannuation Fund Authority
Guardians of New Zealand Superannuation
Museum of New Zealand Te Papa Tongarewa Board
New Zealand Artificial Limb Service
New Zealand Film Commission
Heritage New Zealand (Pouhere Taonga)
New Zealand Lotteries Commission
New Zealand Symphony Orchestra
Public Trust

Commission for Financial Literacy and Retirement Income
Te Taura Whiri I Te Reo Maori (Maori Language Commission)
Te Māngai Pāho
Testing Laboratory Registration Council (IANZ)

Independent Crown Entities

Broadcasting Standards Authority
Children's Commission
Commerce Commission
Drug Free Sport New Zealand
Electoral Commission
Electricity Authority
External Reporting Board
Financial Markets Authority
Health and Disability Commission
Human Rights Commission
Law Commission
New Zealand Productivity Commission
Office of Film and Literature Classification
Privacy Commission
Takeovers Panel
Transport Accident Investigation Commission

Crown Entity Companies

New Zealand Venture Investment Fund Limited

Crown Irrigation Investment Limited
Radio New Zealand Limited
Television New Zealand Limited

Public Finance Act Schedule 4A Companies

Crown Asset Management Limited
Crown Infrastructure Partners
Education Payroll Limited
Learning State Limited (N4L)
Ōtākaro Limited
Predator Free 2050 Limited
Research and Education Advanced Network New Zealand Limited
Southern Response Earthquake Services Limited
Tamaki Redevelopment Company Limited

Reserve Bank

Reserve Bank of New Zealand

Crown Research Institutes

AgResearch Limited
Institute of Environmental Science and Research Limited
Institute of Geological and Nuclear Sciences Limited
Landcare Research New Zealand Limited
National Institute of Water and Atmospheric Research Limited
New Zealand Forest Research Institute Limited (Scion)
New Zealand Institute for Plant and Food Research Limited

29 October 2018

Chief Executives, State Entities

Dear Chief Executives

State Sector Inquiry into the Use of External Security Consultants - Clarification

Thank you for your response to my letter of 23 July 2018.

In that letter I explained that Simon Mount QC and I have been appointed by the State Services Commissioner to conduct an inquiry into the use of external security consultants by Crown agencies, and asked you to conduct a self-assessment as to whether there were any matters that should be brought to the attention of the inquiry. Specifically, I sought information about whether your agency has had any relationship with any external security consultants.

In reviewing agency responses, it has come to our attention that some agencies have included subsidiaries in their self-assessments, while others have not. For the sake of completeness, I now ask that if your agency did not include an assessment of your subsidiary companies, to please now ask those subsidiaries to undertake the same self-assessment that your agency has undertaken.

It would be appreciated if you could confirm back to us in writing:

- a the names of any subsidiary companies;
- b whether they were included in your initial response; and
- c If not included in your initial response, the results of self-assessment of that subsidiary.

For ease of reference, we have attached my original letter to you as Appendix A, which describes what that assessment should entail.

We would be grateful if you could contact the Inquiry Team as soon as possible to let us know whether your subsidiaries were included in your original response. If they were not included, then we would appreciate if the further self-assessment could be completed by 5pm on Monday 5 November. Please send all letters responding to this letter to Sarah Baddeley at MartinJenkins:

9(2)(a) privacy copied to commission@ssc.govt.nz. If you wish to discuss this letter or the process, please contact Robert Liberona at the State Services Commission on 9(2)(a) 9(2)

Yours sincerely



Doug Martin
Director



Wellington T +64 4 499 6130

Level 1, City Chambers, Cnr Johnston and Featherston Streets, Wellington 6011, PO Box 5256, Wellington 6140, New Zealand

Auckland T +64 9 915 1360

Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010, PO Box 7551 Wellesley Street, Auckland 1141, New Zealand

Info@martinjenkins.co.nz martinjenkins.co.nz

Stephen Moore

From: Robert Liberona 9(2)(a) privacy
Sent: Thursday, 1 November 2018 6:58 AM
To: Robert Liberona
Subject: Fwd: Weekly report

Get [Outlook for iOS](#)

From: Robert Liberona
Sent: Thursday, November 1, 2018 6:57:21 AM
To: Catherine Williams [SSC] 9(2)(a) privacy
Cc: 9(2)(a) privacy
Subject: Fwd: Weekly report

Get [Outlook for iOS](#)

From: Robert Liberona 9(2)(a) privacy
Sent: Thursday, November 1, 2018 6:55 AM
To: Sarah Baddeley
Subject: Re: Weekly report

Thanks

Get [Outlook for iOS](#)

From: Sarah Baddeley 9(2)(a) privacy
Sent: Wednesday, October 31, 2018 6:21 PM
To: Robert Liberona
Cc: Simon Mount; Doug Martin
Subject: Weekly report

This week the Inquiry progressed management of the information request to CRIs and Crown Entity subsidiaries. All information is now in from CRIs (with the exception of NIWA) and we are progressing to an investigation stage with AgResearch.

Interviews with key people of interest have been delayed due to scheduling changes and as individual employees access appropriate support/legal representation. We have two meetings scheduled tomorrow and a further two that will be held in the week beginning 13 November. An interview with 9(2)(a) privacy occurs tomorrow. We have two meetings next week of particular interest - a meeting with the CE of NZTA and a liaison meeting with NZ Police.

Drafting of the reporting is progressing with effort focussed on the executive summary.

Regards

Sarah

Get [Outlook for iOS](#)

This email and any attachment may contain confidential information. If you have received this email or any attachment in error, please delete the email / attachment, and notify the sender. Please do not copy, disclose or use the email, any attachment, or any information contained in them. Consider the environment before deciding to print: avoid printing if you can, or consider printing double-sided. Visit us online at ird.govt.nz

Proactively released by
the State Services Commission

Leanne Kelly

From: Robert Liberona [SSC]
Sent: Thursday, November 8, 2018 7:11 AM
To: Catherine Williams [SSC]
Subject: Fwd: Weekly report

FYI
Sent from my iPhone

Begin forwarded message:

From: Sarah Baddeley 9(2)(a) privacy
Date: 7 November 2018 at 6:29:41 PM NZDT
To: "Robert Liberona [SSC]" 9(2)(a) privacy, "Kate Salmond [SSC]" 9(2)(a) privacy
Cc: Simon Mount 9(2)(a) privacy, Doug Martin 9(2)(a) privacy
Subject: Weekly report

This week the Inquiry focussed on progressing matters related to the Crown Research Institutes in addition to progressing the Inquiry report.

An interview with one person of interest to the Inquiry was deferred following their need for further advice. We are hoping this interview occurs this week.

A liaison meeting was held with NZ Police. The Inquiry team also met with the CE of NZTA to provide him feedback on the Inquiry's feedback to date.

Next week the Inquiry will travel to Christchurch to interview employees at AgResearch, meeting with the Chair and CE of Southern Response and will also have a meeting with 9(2)(a) privacy an individual who has been critical of the use of external security consultants by the state sector. Interviews are also scheduled with Maritime New Zealand employees.

Primary document requests have now been sent to NIWA. Interviews are set down for the week beginning 20 November.

Sarah Baddeley
Manager, Consulting

9(2)(a) privacy

T 09 915 1360
9(2)(a) privacy

 [MartinJenkins](#)

 Read our blog: [From the Exosphere](#)

**MARTIN
JENKINS**



T +64 9 915 1360
Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010
PO Box 7551, Wellesley Street, Auckland 1141, New Zealand
martinjenkins.co.nz

PLEASE NOTE: The information contained in this email message and any attached files may be confidential and subject to privilege. The views expressed may not necessarily be the official view of Martin, Jenkins and Associates Limited. If you are not the intended recipient, you are notified that any use, disclosure or copying of this email is unauthorised. If you have received this email in error, please notify us immediately by reply email and delete the original. Thank you

Proactively released by
the State Services Commission

Leanne Kelly

From: Robert Liberona [SSC]
Sent: Wednesday, November 14, 2018 4:13 PM
To: Kate Salmond [SSC]
Subject: FW: Weekly Report

[IN-CONFIDENCE]

Weekly report from MJ for us to discuss at 9 am with Sarah

From: Sarah Baddeley 9(2)(a) privacy
Sent: Wednesday, 14 November 2018 4:05 PM
To: Robert Liberona [SSC] 9(2)(a) privacy
Cc: Doug Martin 9(2)(a) privacy; Simon Mount 9(2)(a) privacy
Subject: Weekly Report

The Inquiry team has focussed on progressing the preparation of draft report to meet the timeframes for eventual release.

Parallel to this the Inquiry has progressed focus on the Crown Research Institutes particularly AgResearch and NIWA.

Meetings were also held with the CE and Chair of SRES to inform them of progress on the Inquiry and also met with a private individual who has held concerns about SRES use of external security consultants.

9(2)(a) privacy, 6(c) maintenance of the law

Focus in the coming week will be on preparing the report, receiving feedback from SSC, document review and interviews with NIWA and the remaining individuals whose interviews will be undertaken under oath.

Kind regards


Sarah

Sarah Baddeley
Manager, Consulting

M +64 9(2)(a)

T 09 915 1360

E 9(2)(a) privacy

 MartinJenkins

 Read our blog: [From the Exosphere](#)

**MARTIN
JENKINS**



T +64 9 915 1360

Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010

PO Box 7551, Wellesley Street, Auckland 1141, New Zealand

martinjenkins.co.nz

PLEASE NOTE: The information contained in this email message and any attached files may be confidential and subject to privilege. The views expressed may not necessarily be the official view of Martin, Jenkins and Associates Limited. If you are not the intended recipient, you are notified that any use, disclosure or copying of this email is unauthorised. If you have received this email in error, please notify us immediately by reply email and delete the original. Thank you

Leanne Kelly

From: Sarah Baddeley 9(2)(a) privacy
Sent: Wednesday, November 21, 2018 9:47 PM
To: Kate Salmond [SSC]; Robert Liberona [SSC]
Cc: Simon Mount; Doug Martin
Subject: Weekly report

Focus of activities this week included:

- Document review and interviews with CRIs. These are now complete.
- Interview with Contractor A and a former manager at MPI
- Preparing the first full draft of the Inquiry report.

This coming week includes:

- Further progress on drafting
- Interviews with MPI and former MAF employees
- Progress on a potential additional line of Inquiry
- Liaison with Police
- Preparation to being the process of checking factual accuracy and enabling opportunity for response to adverse findings.

Regards


Sarah


Sarah Baddeley
Manager, Consulting

M +64 9(2)(a)

T 09 915 1360

E 9(2)(a) privacy

 [MartinJenkins](#)

 Read our blog: [From the Exosphere](#)

**MARTIN
JENKINS**



T +64 9 915 1360

Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010

PO Box 7551, Wellesley Street, Auckland 1141, New Zealand

martinjenkins.co.nz

PLEASE NOTE: The information contained in this email message and any attached files may be confidential and subject to privilege. The views expressed may not necessarily be the official view of Martin, Jenkins and Associates Limited. If you are not the intended recipient, you are notified that any use, disclosure or copying of this email is unauthorised. If you have received this email in error, please notify us immediately by reply email and delete the original. Thank you

AIDE-MEMOIRE



Update on Inquiry into the Use of External Security Consultants by Government Agencies

Date: 29 November 2018
For: Hon Chris Hipkins, Minister of State Services
Report No: SSC:2018/1088

Update on Inquiry into the Use of External Security Consultants by Government Agencies

Purpose To update you on the Inquiry into the Use of External Security Consultants by Government.

Background In early 2018 public questions arose about whether Southern Response, a government-owned company, had used Thompson and Clark Investigations Ltd (TCIL) to conduct surveillance of individual insurance claimants. In response, the State Services Commissioner launched an Inquiry under the State Sector Act focusing on whether surveillance had taken place and whether there had been any breaches of the Code of Conduct for the State Services.

In the following weeks questions were raised about the apparently-close relationship between other government agencies and TCIL. In July 2018 MPI referred evidence of potential serious staff misconduct to the Serious Fraud Office.

These developments led to the broadening of the Inquiry – to all government agencies and their subsidiaries, as well as to Crown Research Institutes. The Police were not part of this Inquiry but undertook their own internal review in October and November 2018.

Scope of the Inquiry The final terms of reference of the Inquiry are to identify and report on:

- the circumstances of, and reasons for, any engagement by Crown Agencies of external security consultants including but not limited to Thompson & Clark Investigations Limited (TCIL) and its associated companies and entities;
- the nature and outcomes of any such engagement; and
- the nature of the relationship between current and former employees of Crown Agencies and TCIL and its associated companies and entities.

Next steps The Inquiry is not yet finalised, and the Inquiry team is still carrying out a natural justice process with TCIL and government agencies mentioned in the report. We would like to emphasise that all findings are subject to the outcomes of that process.

We will update you on key findings at our meeting on Monday 3 December and provide you with talking points for the oral item at Cabinet.

The final Inquiry report will be released at a media conference by the State Services Commissioner and the Inquiry team on 11 December. At the same time all relevant State services agencies will proactively a package of material.

In the lead-up to the media conference, the following steps will be taken:

- We will meet with you to discuss the report on Monday 3 December at 11.30am.
 - You may wish to take an oral item to Cabinet on Monday 3 December to update your colleagues on the high-level findings of the report.
 - State Services Commissioner Peter Hughes and Deputy Commissioner Debbie Power will meet with Minister Woods to discuss the findings in relation to Southern Response during the week of 3 December. All other relevant Ministers will be briefed by their Chief Executives.
-

We recommend that you withhold this material until the final Inquiry report has been released, and that you consider whether to proactively release it at that time.

 Agree/disagree.

Proactive Release



Hon Chris Hipkins, Minister of State Services

Author: Lily Clark, Senior Advisor, Integrity, Ethics and Standards

Responsible Manager: Catherine Williams, Deputy Commissioner, Integrity, Ethics and Standards

Talking Points for Oral Item

SSC Inquiry into the Use of External Security Consultants by Government Agencies

Context

- In early 2018, public questions arose about whether Southern Response, a government-owned company, had used Thompson and Clark Investigations Ltd (TCIL) to conduct surveillance of individual insurance claimants.
- In response, the State Services Commissioner launched an Inquiry under the State Sector Act focusing on whether surveillance had taken place and whether there had been any breaches of the Code of Conduct for the State Services.
- In the following weeks questions were raised about the apparently-close relationship between other government agencies and TCIL. In July 2018 MPI referred evidence of potential serious staff misconduct to the Serious Fraud Office.
- These developments led to the broadening of the Inquiry – to all government agencies and their subsidiaries, as well as to Crown Research Institutes. The Police were not part of this Inquiry but undertook their own internal review in October and November 2018.
- The final terms of reference of the Inquiry are to identify and report on:
 - the circumstances of, and reasons for, any engagement by Crown Agencies of external security consultants including but not limited to TCIL and its associated companies and entities;
 - the nature and outcomes of any such engagement; and
 - the nature of the relationship between current and former employees of Crown Agencies and TCIL and its associated companies and entities.

The Inquiry report

- The Inquiry report is not yet finalised. A natural justice process is still being undertaken, including with TCIL, and the findings of the report depend on the outcome of that process.
- The final Inquiry report will be made public at a media conference held by the State Services Commissioner and the Inquiry team in the week of 10 December. State services agencies will also proactively release a package of relevant material.

Next steps

- Your Chief Executives will brief you in the coming days if there are any Inquiry findings relevant to an agency or agencies in your portfolios.
- The State Services Commissioner and Deputy Commissioner will also brief Minister Woods in relation to Southern Response later this week.

13 December 2018

Peter Hughes
State Services Commissioners
State Services Commission
PO Box 329
Wellington

Dear Peter

Through the course of our Inquiry into the use of external security consultants by Government agencies we became aware of a number of complex issues related to the secondary employment of state servants in roles that may present a conflict of interest under the State Sector Standards of Conduct and Integrity.

Your terms of reference to us required us to consider the nature of the relationship between current and former employees of Crown agencies and Thompson and Clark Investigations Limited and its associated companies and entities.

Through the course of the self-assurance process to support the Inquiry, the New Zealand Customs Service (Customs) proactively provided examples of where some Customs staff have sought secondary employment as external security consultants other than Thompson and Clark. Customs provided the Inquiry with advice that a small number of staff, over the years, have obtained secondary employment as security contractors and a very small number of employees continue to do so. Most of these examples were where the employees undertook work as security guards. One of these examples related to work as a private investigator for a private company in the health sector.

While outside of our terms of reference, we do consider that the case for Customs Officers to work in secondary employment as an external security consultant is potentially problematic. Particularly where such employment utilises specialist knowledge or skill. This has the potential to create a conflict, or the perception of a conflict, that may bring the organisation into disrepute.

We recognise the effort that Customs has recently taken to review and adapt its conflict of interest policy to provide further clarity to staff. We note that this work predates our investigation. This is to be recognised and their new policy is appropriate to manage that risk in the future. We also understand Customs has already begun reviewing individual instances where approval has previously been provided to ensure secondary employment arrangements remain proper. You may wish to get an update on progress from the Agency.



Wellington T +64 4 499 6130
Level 1, City Chambers, Cnr Johnston and Featherston Streets, Wellington 6011, PO Box 5256, Wellington 6140, New Zealand

Auckland T +64 9 915 1360
Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010, PO Box 7551 Wellesley Street, Auckland 1141, New Zealand

info@martinjenkins.co.nz **martinjenkins.co.nz**

On that basis we considered it appropriate to directly bring the matter to your attention outside of the parameters of our Inquiry report for your due consideration.

Yours sincerely



Doug Martin
Director



Simon Mount
QC

Proactively released by
the State Services Commission





17 December 2018

Christine Stevenson
Chief Executive
New Zealand Customs
PO Box 2218
Wellington 6140

Dear Ms Stevenson

Inquiry into the Use of External Security Consultants by Government Agencies: New Zealand Customs

The Inquiry into the Use of External Security Consultants by Government Agencies has now concluded, and the Inquiry Team has finalised its findings. The Inquiry had no specific findings in relation to New Zealand Customs.

I understand that, although it was outside the scope of the Inquiry's terms of reference, you have proactively provided the Inquiry team with information about Customs employees undertaking secondary employment for external security consultants other than Thompson and Clark Investigation Services Limited (TCIL). Most of these examples were where the employees undertook work as security guards, and one related to work as a private investigator for a private company in the health sector.

It is unacceptable for a public servant to hold a secondary role that creates the risk of real or perceived conflict of interest given the powers they exercise and the information they have access to in their primary role. This has the potential to erode public trust and confidence in the Public Service.

While I am disappointed that inappropriate secondary employment with external security consultants was carried out by Customs employees, I acknowledge that New Zealand Customs has recently developed a conflict of interest policy, refreshed its secondary employment policy, and reviewed individual instances of approved secondary employment to ensure they do not create a real or perceived conflict of interest. I understand that this work predates the Inquiry.

I am satisfied that you have taken the necessary steps to guard against inappropriate secondary employment by New Zealand Customs employees.

All public servants must be vigilant in how they exercise the significant responsibilities entrusted to them by New Zealanders. I appreciate your personal management of this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter Hughes', written in a cursive style.

Peter Hughes
State Services Commissioner

Proactively released by
the State Services Commission



17 December 2018

Ms Carolyn Tremain
Chief Executive
Ministry of Business Innovation and Employment
PO Box 1473
Wellington 6140

Dear Ms Tremain

Inquiry into the Use of External Security Consultants by Government Agencies: The Ministry of Business Innovation and Employment

The Inquiry into the Use of External Security Consultants by Government Agencies has now concluded, and the Inquiry Team has finalised its findings.

You will be aware of the Inquiry's findings that MBIE's management of its regulatory responsibilities in the petroleum and minerals area, compounded in some instances by employees not maintaining an appropriate professional distance, contributed to a perception of bias by some stakeholders and was evidence of poor regulatory practice.

Considering its conduct as a whole, the Inquiry found that MBIE breached the Code of Conduct by failing to maintain the level of objectivity and impartiality that the Code requires.

I acknowledge the Inquiry's findings that the individual instances on their own, which led to a breach as a whole, are low-level and predate your tenure as Chief Executive. I also acknowledge that MBIE has already taken steps to address the tensions between its regulatory and promotional responsibilities, including by making structural and leadership changes.

I am confident that you have built momentum to resolving the majority of these issues. You may wish to review MBIE's internal policies to assure yourself that they are consistent with the Code of Conduct.

The outstanding issue that this Inquiry raises for me is whether Operation Exploration should continue – either in its current form, or at all. I request that you undertake a review of Operation Exploration in light of the findings of the Inquiry, and advise me of your view and the action you intend to take.

All public servants must be vigilant in how they exercise the significant responsibilities entrusted to them by New Zealanders. I appreciate your personal management of this matter.

Yours sincerely,



Peter Hughes
State Services Commissioner

Proactively released by
the State Services Commission



17 December 2018

Ms Belinda Vernon
Chair
Maritime New Zealand
PO Box 25 620
Wellington 6146

Dear Ms Vernon

**Inquiry into the Use of External Security Consultants by Government Agencies:
Maritime New Zealand**

The Inquiry into the Use of External Security Consultants by Government Agencies has now concluded, and the Inquiry Team has finalised its findings.

I would like to draw your attention to the findings in relation to the Maritime New Zealand.

The Inquiry found that the Chief Executive of Maritime New Zealand gave approval for an employee to undertake secondary employment with Thompson and Clark. Given the nature of the employee's work as an intelligence analyst and the risk of a conflict of interest, the application should not have been approved. In the circumstances this fell just short of breaching the Code of Conduct.

As the Chair of the Maritime New Zealand Board it is for you to determine what, if any, next steps are appropriate.

All State servants must be vigilant in how they exercise the significant responsibilities entrusted to them by New Zealanders. I appreciate your personal management of this matter.

Yours sincerely


Peter Hughes
State Services Commissioner

Copy to: Peter Mersi, Secretary of Transport