



Te Kawa Mataaho

Public Service Commission

27 March 2024

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Official Information Request

Our Ref: OIA 2024-0057

I refer to your official information request received on 15 March 2024 where you asked the following:

“When the government has policies that are implicitly contradictory is there a procedure or method for resolution.

An example is a policy to mitigate flooding but at the same time there are policies and standards such as NZS 4404 that increase storm water. by stating that surfaces shall be impermeable.

More generally there is a policy of adaptation to the reality of climate change at the same time regulations are old, fixed based on historical information that is not likely to be realistic in the future/currently.

Secondly when local government has conflicting policies from central government what should they do”.

Our response

There are several ways in which governments can try to limit the unintended consequences of public policy decisions and to try to reconcile contradictory policies.

Public policies frequently need to balance competing tensions, and pursuing one policy outcome inevitably has multiple effects across a range of other outcomes. Good policy analysis should directly consider the full range of impacts of a policy decision, to the extent that these can be anticipated.

The Policy Project (<https://www.dPMC.govt.nz/our-programmes/policy-project>) provides guidance for policy analysts on how to do effective policy analysis. This can involve a combination of desktop/technical analysis as well as engagement with affected parties. The Policy Project is about building a high performing policy system that supports and enables good government decision making.

When writing a regulatory proposal, departments must complete an impact assessment that complies with Cabinet’s Impact Analysis Requirements (<https://www.treasury.govt.nz/information-and-services/regulation/impact-analysis-requirements-regulatory-proposals>).

Impact assessments are informed by the Government Expectations for Good Regulatory Practice (<https://www.treasury.govt.nz/information-and-services/regulation/regulatory-stewardship/good-regulatory-practice>), and are subsequently assessed for quality by the Treasury, including the extent to which they consider all substantial and reasonably-anticipated impacts across potential outcome areas. This analysis helps Cabinet to have confidence in advice received, and to make informed decisions about the trade-offs between different options.

While the process above shows how efforts are made to ensure decisions are informed by analysis of different potential outcomes, some causes and effects change over time. Some policies that were not previously contradictory may become contradictory as the context changes. The Government Expectations for Good Regulatory Practice set out the expectations that regulators monitor, review, and report on existing regulatory systems. When regulations are identified as no longer being fit-for-purpose, agencies are expected to provide advice that such regulations should be reviewed.

Despite these various quality-control mechanisms, even the best policies often improve outcomes in one area while worsening outcomes in another. Governing involves making difficult choices between these different outcomes, and balancing different policy instruments to achieve the desired result. When these impacts cross between different portfolios, it usually falls to Cabinet to make important decisions between conflicting aims.

When local government faces conflicting policies from central government, they have several options. They can seek solutions that attempt to reconcile these apparent conflicts, or, if this isn't possible, they can seek advice from the central government agencies responsible for administering these policies.

If you wish to discuss this decision with us, please feel free to contact Ministerial.Services@publicservice.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) on the Te Kawa Mataaho Public Service Commission's website.

Yours sincerely



Nicky Dirks

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