



**The State Services Commissioners report  
on the public service recruitment  
and employment of  
Ms Madeleine Setchell**

**14 November 2007**

## **State Services Commissioner's Report into the Public Service recruitment and employment of Ms Madeleine Setchell**

### **Introduction**

In early August 2007 I announced that I had asked Mr Don Hunn, the former State Services Commissioner, to conduct an inquiry into issues relating to the employment of Madeleine Setchell.

At the time of that announcement, Ms Setchell's employment and subsequent separation from the Ministry for the Environment had been a matter of vigorous public debate and extensive parliamentary questioning. In particular there was considerable public disquiet that the circumstances may be indicative of a departure from the traditions of the impartial public service that is a feature of our constitutional system. This is a sufficiently grave question that it would itself potentially be enough to justify an inquiry. However, I had further reasons for seeking to establish all the facts and draw appropriate lessons. First, though all public commentary at that time had been focused on her employment for the Ministry for the Environment, by August I was aware that Ms Setchell had also had employment related interactions with two other Government departments and at least one of those interactions seemed to raise similar questions. Without establishing the facts, I could not give clear assurance about behaviour.

Similarly, in early August, though there had been considerable public speculation, the facts of how Ms Setchell came to be employed in the Ministry for the Environment, and how she came to leave the Ministry were still unclear even to the State Services Commission. As late as the end of July, at the SSC press conference, the Deputy State Services Commissioner Iain Rennie had explained that we still needed to understand more of the detail of Ms Setchell's employment. Given the confusion that had continued for some weeks, I concluded it was no longer sufficient to rely on reports from the Ministry and that I would need to initiate a more formal process to establish the facts.

Third, the subsequent debate about whether the Minister for the Environment might have intervened inappropriately and the confusion about who knew what and when is also something which has led some to raise questions about the integrity of the senior public servants involved, including myself. Such matters should not be left unanswered, and that too required a more thorough process to get to the facts.

Finally, the public debate around this matter had led to many comments by media and politicians on the standards that ought to be followed. There was discussion on matters of

conflict, including the role of family, there was discussion on whether or not political matters should ever enter into consideration in the employment of a public servant, and there was the discussion of what is implied by a “no surprises” policy. Much of that public commentary was simplistic and even wrong. The person with the responsibility to set and maintain the standards on such matters is the State Services Commissioner. Unfortunately, for a variety of reasons including public confusion about the role that we had already played, it was very difficult for me to draw the lessons in public at that stage. That, then, was a further reason for adopting an impartial and fairer means of clarifying all the facts and then to draw the lessons for future reference.

Though it was apparent from the outset that any such inquiry would have to be conducted under my responsibility, using the provisions of the State Sector Act, it was also clear that credibility required independence. That is why I asked Don Hunn, with the assistance of the Solicitor-General, to conduct this Inquiry. That is why the State Services Commission has assisted at every point in providing information. That is why I have personally appeared and testified on oath on the matters relating to my own behaviour. That is also why Mr Hunn’s report is published in full with all the associated material.

Mr Hunn’s report outlines the facts. It outlines how Ms Setchell came to be employed, how Mr Hugh Logan, Chief Executive for the Ministry for the Environment became aware of a possible conflict, how he sought advice from the State Services Commission, how he then moved to change Ms Setchell’s role, how he arrived at a separation including compensation for all the matters related to her employment, and how the SSC gradually became aware of the facts during July.

As I said on the day when I announced this Inquiry, I acknowledge that I have made mistakes myself, including errors of memory. Mr Hunn has identified those mistakes, I acknowledge them and I regret them. They do not, however, absolve me from my responsibility in leading the State Services. As a result, I am required to make findings in this matter and to draw lessons. The following section outlines the findings that I have arrived at based on Mr Hunn’s inquiry and my discussions subsequently with the Chief Executives involved. They also outline the lessons that I believe can be helpfully drawn for all State servants from this matter, including the public discussions that ensued around this case.

I cannot make findings in respect of myself and instead Mr Hunn has done that. I also cannot take to myself the role of judging my own performance; that is a matter for Ministers.

Mr Hunn’s findings are included in full at the end of this report, together with my response.

**Findings and judgement in relation to the Public Service departments and Chief Executives involved in the recruitment and employment of Ms Madeleine Setchell:**

Ministry for the Environment

Findings in relation to the Ministry for the Environment are:

- 1 The employment in the Ministry for the Environment of Ms Setchell and her subsequent separation, were managed poorly. There was a confusion of roles and initially inadequate attention was given to a declared conflict. Once the conflict became apparent, the Ministry sought to resolve it quickly in a process during which Ms Setchell was not treated with appropriate sensitivity, and she was not given adequate opportunity to explore options. Ms Setchell was entitled to expect fairer treatment from a good employer.
- 2 The employment of the partner of the Chief Press Secretary for the Leader of the Opposition in the role of communications manager in the Ministry for the Environment during a time when communication on environmental matters is intended to become an increasingly important aspect of government activity does raise the potential for perceptions of a conflict of interest. Accordingly, the Chief Executive was justified in seeking to manage the conflict.
- 3 Though there was a need to manage the conflict in my view it was not inevitable that Ms Setchell must transfer from the position of communications manager to another job. The Chief Executive of the Ministry for the Environment came to his view that the conflict made it impossible for her to continue in the job to which she had been appointed. I do not think any compelling reason has been found as to why Ms Setchell, subject to some modifications around processes, could not have continued in that job.
- 4 Ms Setchell behaved entirely properly. She provided information about her potential conflict at appropriate times. She considered the offer of a possible change of roles, to manage the situation, but the fact that she declined the option she was offered was understandable in the circumstances.
- 5 The Chief Executive of the Ministry for the Environment raised the employment of Ms Setchell with his Minister. He had an understandable belief that his Minister was concerned about the issue and he was aware the appointment was already a matter of rumour. In those circumstances I can understand the Chief Executive of the Ministry for the Environment having the discussion with his Minister.

- 6 The Minister's response (and the contribution from his office) was well within the norms of Ministerial reaction to such matters. The response was capable of being managed in a normal robust exchange between a Minister and a Chief Executive. In particular, the Chief Executive of the Ministry for the Environment has emphasised that the Minister and his office always affirmed their respect for the Chief Executive's role in employment matters.
- 7 The Chief Executive for the Ministry for the Environment has testified that he arrived at his own view as to how to deal with the employment issue that arose, and that the Minister's views did not determine his employment actions. I believe the Chief Executive's testimony.
- 8 The reason why in July SSC did not receive a full account from the Chief Executive of the Ministry for the Environment of his contact with his Minister was due to a number of factors. The contacts between SSC and that Chief Executive over this period were often rushed to meet time pressures to finalise documents. The Chief Executive of the Ministry for the Environment considered the relevant comments in those documents to be accurate given their context. He was aware that he had provided the Commissioner with a full account of the contact with the Minister, and he assumed that others in the Commission were aware of those details. Accordingly, it wasn't evident to the Chief Executive that he needed to repeat his account. When the media began to increasingly focus on his Minister's role, the Chief Executive decided against contacting the Minister about the matter, assuming that the Minister recalled the conversation and that discussion of the issue with him might create a risk of accusations of collusion.
- 9 The Ministry for the Environment entered into a settlement with Ms Setchell, and there were grounds for its doing so given that she was losing the job that she was appointed to, through no fault of her own. The terms of the settlement included a confidentiality clause. In making the settlement confidential, the Ministry for the Environment acted on legal advice, and accorded a higher priority to Ms Setchell's privacy than to the public interest in maintaining the transparency of such settlements. I can see no special circumstances in this case serving to override the expectation that a public sector employer should act to preserve maximum transparency in such settlements. I consider it was a mistake to agree to confidentiality on this occasion.

Based on these findings my judgement about the performance of the Chief Executive of the Ministry for the Environment is as follows:

First, though there has been widespread speculation suggesting that Mr Logan may have improperly sought to meet the Minister's political priorities while making employment decisions, there is no evidence of such behaviour. There is nothing in Mr Hunn's report that suggests that Mr Logan was in any way improperly influenced in his behaviours.

Though I had reservations at the time about his raising the matter with the Minister, I now conclude he had sufficient reason for this discussion. Having discussed it with the Minister he arrived at his own conclusions as he should.

Mr Logan was entitled to take Ms Setchell's apparent conflict into account, but in doing that he was not effective enough in involving her in a fair process and arriving at an agreed solution. In addition, the administrative processes seem to have been weak as the appointment process was not tightly managed, the options once the conflict were discovered were not well explored, and there were not strong enough grounds to make the settlement confidential. Though all of these are untidy, and they add up to an unfortunate picture, none of them represent a retreat from basic public service values.

That is not to say that this issue is of no consequence. Ms Setchell suffered significantly as a result of these management errors. The compensation payment to Ms Setchell was the agreed means of recompensing her loss. Though Mr Hunn has found that payment to be appropriate in the circumstances, the fact remains that one of the real consequences of this poorly managed process was the expenditure of taxpayers' money. Accordingly I have decided that there will be a monetary consequence for Mr Logan through the operation of the annual performance management system.

### Ministry of Agriculture and Forestry

Findings in relation to the Ministry of Agriculture and Forestry are:

- 1 While thinking about whether to consider Ms Setchell for a possible contract, some staff, including the Chief Executive, of the Ministry of Agriculture and Forestry were made aware of the role Ms Setchell's partner held. The Chief Executive of the Ministry of Agriculture and Forestry was correct in assessing that there was potential for perceptions of a conflict of interest if Ms Setchell were to be appointed to certain roles within the Ministry, and that these issues needed to be considered and managed.
- 2 The Chief Executive of the Ministry of Agriculture and Forestry raised the employment of Ms Setchell with his Minister. Though the circumstances as he understood them made

it understandable that the Chief Executive would talk with the Minister, there was no compelling reason for a discussion before the Chief Executive finalised his own decision and it was not strictly necessary. That is, with the benefit of hindsight, the Chief Executive could have made his own decision and then informed the Minister.

- 3 The Minister's response (and the contribution from his office) was well within the norms of Ministerial reaction to such matters. The response was managed as a normal exchange between a Minister and a Chief Executive. In particular, the Chief Executive of the Ministry of Agriculture and Forestry has emphasised that the Minister and his office always affirmed their respect for the Chief Executive's role in employment matters.
- 4 The Chief Executive for the Ministry of Agriculture and Forestry has testified that he arrived at his own view as to how to deal with the employment issue that arose, and that the Minister's views did not determine his employment actions. I believe the Chief Executive's testimony.

Based on these findings my judgement about the performance of the Chief Executive of the Ministry of Agriculture and Forestry is as follows:

In respect of the Ministry of Agriculture and Forestry, the possible employment of Ms Setchell was largely well handled. The CE was correct in identifying a risk and used careful judgement to approaching the risk. The only matter to consider is his decision to raise the matter with the Minister before finalising his own view. Guidance on such matters is not clear cut and there was a basis for informing the Minister of a matter which had potential to become of public interest. On the other hand, the Chief Executive was clear on his own views in this matter and could have waited to determine his own direction and simply let the Minister know what he had done. Accordingly, I have concluded the discussion was not strictly necessary.

This is not a substantial concern, nor is my judgement clear cut. It is certainly arguable that the potential future risks required the Chief Executive to consult the Minister. In addition, irrespective of my concerns, the consequences of this consultation were not significant. That is, the Minister responded appropriately, and the Chief Executive made his own decisions. In fact, the Chief Executive did appreciate the risks inherent in the situation and generally managed those risks well. He also remained open to the possibility that Ms Setchell would be suitable for other Ministry of Agriculture and Forestry jobs, should she have been interested in applying.

Though I have reservations about the decision to consult the Minister, I do not think that this amounts to a performance matter in which I need to concern myself. On the contrary, overall the Chief Executive performed well in this matter.

### Ministry of Education

The finding in relation to the Ministry of Education is:

- 1 The management of Ms Setchell's expression of interest in working at the Ministry of Education was administratively appropriate. It would have been better manners if she had been kept better informed, but there is no question of any inappropriate matters being taken into consideration.

Based on this finding my judgement about the performance of the Chief Executive of the Ministry of Education is as follows:

The performance of the Ministry of Education was appropriate, and accordingly I have no matters of concern to raise in respect of the Secretary for Education.

## Lessons from the Ms Setchell case

The terms of reference for this Inquiry require me to derive lessons from this experience to inform State servants. In this case, the lessons are drawn not just from the events of the particular case, but as much from the widespread and sometimes incorrect comment surrounding the case. There was much public speculation about whether it is ever appropriate to take any interest in the politics of any public servant, and on the conventions surrounding “no surprises” practices. The fact that some lessons are included here is not meant to imply that the lessons are directly illustrated by the behaviour of Ms Setchell or with the department with which she was dealing. On the contrary, for example, though the first lesson refers to the political views of public servants, I have no information on the political views of Ms Setchell or any of the public servants involved in this case.

With those thoughts in mind, some broad lessons may be drawn. For the Public Service to operate in an effective way, responsive to changing political priorities and impartial between political ideologies, Chief Executives need to constantly balance a range of issues. Some of the matters that have been illustrated or discussed in the context of the present case include;

1. The political views of public servants are generally not a relevant factor in their employment; it is their behaviour that matters.

Public servants have civil rights like everyone else. This means that most public servants may express political views and they may even be politically active. For decades many public servants have maintained party membership, have campaigned on behalf of candidates for Parliament and have even held party positions. The important thing is that every public servant (and those across the full range of State Services) must keep their job and their politics separate. The individual must not bring their own politics to bear on the job, because that usurps the prerogative of Ministers. Similarly, the individual must not bring their own job into politics, because that creates inevitable public confusion about the impartiality with which the public servant is carrying out their duties. The boundaries of these matters are not always clear, and should always be discussed. Any attempt to clarify things by use of formalised ‘registers’ of the political affiliations or activities of public servants would not be a good idea. Such a formal ‘registration’ process would inevitably tend to constrain the freedom of public servants to exercise what are undeniably their civil rights. However, this does not mean that public servants have no obligation to discuss their actual or intended political activities with their managers. Once a possible conflict has been identified, it needs to be managed effectively, and that will often require the conflict to be recorded. Any public servant (or State servant) contemplating political activity should discuss this with their manager in order to ensure that misunderstandings are avoided and that possible conflicts can be identified.

2. For a small number of public servants in key jobs, any political alignments create a conflict with the job.

There are two main types of areas where this arises. Some jobs have particular powers or are defined by their independence (such as people leading independent Crown entities), and in such cases it is important that the incumbents do not display any political preference. The second category is those people working close to Ministers. Such jobs involve a high trust relationship with Ministers and a sharing of sensitive political information. It is not reasonable to expect Ministers to trust politically sensitive information to someone who they know is actively working against them. It is often even more important to ensure that those in senior State Services positions working close to Ministers do not display any partisan support for the Minister; in many respects, this can create even more significant management difficulties and it can be understandable that it might raise concern in the minds of opposition politicians.

People in these key positions must display impartiality in all their actions. For people who in the past may have had some political affiliation, this process of demonstrating impartiality may take some time.

3. There is nothing unique about communications positions, including communications manager positions, which sets them apart from the standard political neutrality considerations applying to all public service jobs.

It is likely that a communications manager may need to be aware of politically sensitive material from time to time, but that is no different from any other jobs that require discretion. It is also true, however, that there is nothing particular in the communications profession that entitles communications staff to be accorded some special automatic trust. It is not enough simply to assert some adherence to standards of integrity and discretion among communications professionals. Such standards have no formal status, are not maintained by use of any particular powers and cannot be relied on by an employer. As with other professions, therefore, the question of whether a particular communications manager job is one of those key tasks requiring the incumbents to display impartiality in all of their actions will depend on the particular circumstances of the job.

4. Family connections are relevant in considering conflict.

Family connections typically involve strong emotional ties and obligations. Though it is generally accepted that most people aim to keep their work and their home life separate it stretches credibility to assert that partners and family members are totally uninterested in each

other's wellbeing or prospects. A candidate with an apparent family conflict may need to do more than simply ask for trust. Trust is earned by sustained behaviour. If individuals do not take active steps to address perceived conflict with family members they leave themselves open to suspicion and doubt. These matters can be addressed, but it takes openness, flexibility and time.

5. All conflict must be managed, including political conflict.

Wherever a public servant (or State servant) is carrying out a task or in a position that requires demonstrated political impartiality, then any apparent conflict must be dealt with. This requires openness and flexibility by all of those involved. It is always best if the individual concerned raises the issues and takes active steps to establish processes and practices which will demonstrate impartiality. Individuals need to engage with their employer on these matters in a flexible way; it is in their own best interests to arrive at a position that is clear and credible. Employers must work with the individual and explore options which would address the risks of conflict while protecting the reasonable employment rights of everyone involved.

6. The management of conflict (especially involving family members) demands special sensitivity from employers.

Any issues of apparent conflict tend to become emotionally charged. People generally find it very difficult to examine such issues and they become concerned that their integrity or their relationships are being questioned. When the apparent conflict involves a family connection, managers need to realise that the issue is not simply between the manager and the individual, the individual is probably undertaking a quite separate conversation with their family member. That may be creating strains at home. It is even possible that the solution may involve a change in the behaviour of the family member and that requires a lot of mutual understanding. Difficult matters of this sort must not be rushed. Unless there is an imperative requiring urgent action, it is generally best to allow time for sensible conversation among all of those concerned.

7. When managing a conflict (or any other employment issues) employers should only involve those who need to know.

Whenever an employer is engaging with an employee about their job, a matter which might seem like a business issue to the employer is an intensely important personal issue to the employee. Whenever the employer involves people who have no direct concern in the matter, that will tend to undermine the employee's trust. In the case of a public service Chief Executive considering a matter of political conflict, consultation with the State Services

Commission is appropriate – matters of political conflict are the business of the State Services Commission. Discussion with the Minister, however, is generally less appropriate – though many senior Ministers have a good understanding of these matters, political impartiality is not the function of Ministers. It is reasonable for the Chief Executive to endeavour to take account of the pressures facing the Minister, and sometimes it can be necessary to talk with the Minister. In any such case, whatever view the Minister expresses cannot and must not be the determining factor in deciding employment matters. In particular, many Ministers have views from time to time on which individuals they wish to deal with on a personal basis; that is a matter which Chief Executives need to manage but it must not be the basis on which Public servants are employed.

8. A Minister's request that they have no surprises does not override the Chief Executive's good employer responsibility to handle employment matters with discretion.

Requests by Ministers that they be kept informed on a “no surprises” basis cannot and do not mean that Chief Executives must inform Ministers of everything they do. Much of what Chief Executives do is not the business of Ministers and both efficiency and propriety dictate that such matters should not be brought to Ministers. Chief Executives should keep Ministers informed of anything with significance within their portfolio responsibilities, but there should be good and particular reason why the Chief Executive would bring matters that are the Chief Executive's statutory responsibility to the attention of Ministers.

9. There is an obligation on good employers to handle their relations with their employees with discretion, but sometimes employee confidentiality may be overridden by the public interest.

It is understandable that employees and managers are generally very sensitive about employment matters. Matters such as constructive criticism, changes of terms and conditions, conflicts and separations, are all generally better conducted in private. The Chief Executive of a public agency, however, has an obligation to account for their performance and behaviours. From time to time, it is necessary for a Chief Executive to explain his or her actions and this may mean more revelation of personal affairs than would otherwise be appropriate. The public official always has an ongoing responsibility to avoid any unnecessary reputational damage to the employee, and to avoid feeding prurient interest in irrelevant details. However, the unavoidable public accountability of public officials means that confidential settlements ought not to be entered into without very good reason and employees ought not to be encouraged to rely on inappropriate undertakings of confidentiality.

10. Ministers and senior officials must talk freely, and that free communication is only possible with continued confidentiality.

Though it has been necessary, in the report of the present investigation, to go into considerable detail about the interactions between public servants, and between public servants and Ministers, this is not always a desirable thing to have happen. It remains the case, and the principles of the Official Information Act confirm, that the effective conduct of public affairs requires free and frank discussion, and that a level of confidentiality is necessary for this to occur. The present report has found nothing so seriously amiss as to justify any movement away from this established principle.

### Overall Lessons

None of the lessons outlined above are new. None of these reflect any new understandings of public service. None of them have been affected by any change in society, political processes or technology. They can all be found in guidance offered in recent and earlier years by myself or predecessors, by the Auditor-General and in the Cabinet manual. A review of the websites of those three organisations will find reference to all of these areas.

I accept, however, that issues of conflict and neutrality are often ambiguous and subtle changes of context may change what is appropriate. In particular, the type of circumstances in which it is necessary (and therefore appropriate) to consult or inform a Minister of an employment matter within the department could usefully be clarified. In the present case I have drawn a distinction between the interactions the two Chief Executives had with the Ministers. I accept that there is a need for a Chief Executive to reassure a Minister that he or she is addressing apparent conflict involving a current employee and which is already the subject of rumour (as in the Ministry for the Environment). It is also true that a Chief Executive's decision in relation to a potential employee which may become an issue of public comment (as in the Ministry of Agriculture and Forestry instance) should be advised to the Minister; a strict necessity test, however, suggests that such advice would better occur after the decision is made.

The fact that different judgements have been made in this case is a reminder that standards and conventions need constant reinforcement. I will continue to ensure that opportunities are provided for public servants to absorb and discuss the conventions and guidelines relating to political neutrality in the Public Service, and to relations between public servants and Ministers. I intend to discuss such matters further with Public Service Chief Executives and, if necessary, in the New Year, I may issue further guidance on a 'necessity test' to assist in deciding when to inform or consult a Minister about an employment matter.

A major lesson is that it is always helpful to think carefully, talk the issues around and work through issues of perceived conflict in a constructive and thorough dialogue between the employer and the employee.

## **Mr Hunn's findings in respect of SSC and the State Services Commissioner**

The following section is repeated in full from Mr Hunn's report.

- (i) Over the period 29 May to the day this Inquiry began in early August, there were 8 SSC personnel involved in this case. Following the initial contact on 29 May between the Commissioner and the Chief Executive for the Ministry for the Environment, and their longer meeting the following day, the normal liaison arrangements between the two organisations were in place. This intensified after the matter came into the public arena towards the end of June.
- (ii) The Commissioner's advice to the Chief Executive when it was sought on 29 and 30 May was comprehensive, cogent and correct. For his part, the Chief Executive felt he had explained his position clearly and that the SSC understood the imperatives which drove his decisions and actions. Both parties were clear that under the law any decisions as to individual employees could only be made by the Chief Executive and that the SSC could not be seen to be directing him.
- (iii) In retrospect it has become clearer that the different frames of reference of the Commissioner and the Chief Executive led to misunderstanding from the beginning - the Chief Executive deciding very early that he had only one option and the Commissioner being under the impression that alternatives would be actively assessed and that Ms Setchell would remain an employee of the Ministry. Although both parties thought there was a plan in place to manage their separate roles, the failure in the information flows to the SSC led to a less assertive stance on its part than might have been expected, which in turn led to the Commissioner being taken by surprise when he learned well after the event that the negotiations between the Ministry and Ms Setchell had failed and she had left the Ministry.
- (iv) While there were a number of unforeseen factors which complicated the situation for the SSC (a not abnormal occurrence), there were also areas where, in retrospect, a more assertive approach might have produced a more positive result;
  - (a) a clearer exposition of how the interactive relationship between Chief Executives and Deputy Commissioners complements the statutory relationship between the Chief Executives and the Commissioner;

- (b) guidance to staff as to the role, purpose and modalities of the SSC's interactions with other organisations, especially in areas where the SSC is expected to be influential but has no statutory power to direct;
  - (c) a more definite response to the CE's approach. There was a plan for follow-up action in the minds of the Commissioner and the Chief Executive at their 30 May meeting, but it does not appear to have been sufficiently explicit to others.;
  - (d) the absence of formal records and poor information flows. As this case demonstrates, where there are no formal records, reliance on memory and on emails (which are often cryptic and hurriedly drafted), can produce distortionary results.
- (v) Overall the SSC did not provide sufficient in the way of leadership and guidance in order to influence events more positively (conceding that ultimately Chief Executives are solely responsible for employment matters and that the Commissioner cannot direct them nor subject them to pressure). In this case, also, the SSC could have given the Minister of State Services better information than she received and published a more formal statement for the media generally, rather than drafting an op-ed piece for one newspaper which was only a partial explanation;
- (vi) In respect of the Commissioner's failure to remember a significant detail arising from his first discussions with the Chief Executive of the Ministry for the Environment, there is no doubt that this had no effect whatsoever on the outcome of Ms Setchell's employment case. Equally, there is no doubt it has produced, in the public mind, a question as to whether events might have unfolded differently in the aftermath if the detail had been known to his colleagues in the SSC a month earlier than it was. It is certainly forgivable to forget on occasion and no system can eliminate human error entirely, but on questions that bear directly on the core responsibility of the SSC, this case demonstrates the need to take every precaution to minimise the risk. With the benefit of hindsight the Commissioner made an error when he failed to ensure that the appropriate members of his senior staff were aware of all the information that had been conveyed to him by the CE following the CE's discussion with his Minister. The Commissioner appreciates he made an error. The public can be confident he is unlikely to repeat it.