



Investigation into the conduct and behaviour of the Retirement Commissioner

Background

Pursuant to section 11(3) of the State Sector Act 1988, the Minister of Commerce and Consumer Affairs has requested that the State Services Commissioner exercise his powers and functions under sections 6 to 10 of the Act to review the conduct and behaviour of the Retirement Commissioner, Ms Diane Maxwell.

Appointment

The State Services Commissioner appoints Maria Jean Dew QC to investigate any allegations of inappropriate behaviour (including but not limited to bullying) made by current or former staff of the Retirement Commissioner, as against Ms Diane Maxwell in her capacity as Retirement Commissioner.

Terms of reference

Ms Dew is to investigate, make findings and report to the State Services Commissioner regarding:

1. Whether the allegations that Ms Maxwell has, in her capacity as Retirement Commissioner, bullied current or former staff of the Retirement Commissioner can be substantiated.
2. Whether Ms Maxwell fulfilled the obligations under section 118(2)(a) of the Crown Entities Act 2004 to ensure "good and safe working conditions", so far as those conditions relate to providing working conditions free from bullying.
3. Whether the agency has systems and policies in place to support the appropriate and efficient management of staff concerns or complaints, including to manage and resolve complaints of inappropriate behaviour in the workplace.
4. Any other matters that arise during the course of the investigation that give rise to an allegation of inappropriate behaviour by Ms Maxwell in her capacity as Retirement Commissioner.
5. Any other relevant matters necessary to provide a complete report on the above.

The investigation will commence once these terms of reference are signed and dated by the State Services Commissioner.

Functions and powers

Pursuant to section 23(1) of the State Sector Act 1988 and for the purposes of the investigation, the State Services Commissioner delegates his functions and powers under sections 7 to 9, and 10 of the State Sector Act 1988 to Ms Dew.

Application of provisions of the Inquiries Act 2013


The State Services Commissioner certifies it is reasonably necessary that the provisions of the Inquiries Act 2013 specified in section 9A(2) of the State Sector Act 1988 apply in relation to the investigation. This is because the investigation should be carried out in accordance with the following principles:

- Powers and duties should be exercised independently, impartially and fairly.
- Where there is the potential for any adverse findings against an individual or organisation, the principles of natural justice should be observed.
- Ms Dew should have powers to regulate the procedures of the investigation, including the gathering of evidence.
- Given the nature of the allegations, and the need to balance the public interest in disclosure with the privacy interests of Ms Maxwell and potential witnesses, Ms Dew should have the power to restrict access to the information she receives.

Reporting

Ms Dew is to report her findings to the State Services Commissioner in writing no later than 28 February 2019.

If Ms Dew identifies issues which may impact the delivery of her report by 28 February 2019, she will notify the State Services Commissioner as soon as possible with a view to resolving an appropriate solution, which may include an extension of time.



Peter Hughes
State Services Commissioner

12 December 2018