

APPENDIX 1



NEW ZEALAND DEFENCE FORCE

Terms of reference for review by State Services Commissioner

Background

New Zealand Defence Force documents have been leaked to members of the opposition. The Minister of Defence and the Chief of Defence Force (by letter dated 12 and 13 September 2001 respectively) have requested the State Services Commissioner, under section 11(4) of the State Sector Act, to “review the performance of the New Zealand Defence Force in relation to the standards of behaviour expected and in particular the leaking and inappropriate use of information by Defence Force personnel”.

The Government has announced two other reviews concerning the Defence Force:

- The Government has initiated a major review of the accountabilities and structural arrangements between the Ministry of Defence and the New Zealand Defence Force;
- The Chief of Defence Force has referred to the Judge Advocate General the matters of a letter written by an army officer in 1997, and an e-mail generated within the navy in March 2001.

The intention is that the results of the State Services Commissioner’s review and the Judge Advocate General’s inquiry will feed into the major review of accountabilities.

Ministry of Defence

The review requested by the Minister of Defence and the Chief of Defence Force will be augmented by a consideration of the standards that apply in the Ministry of Defence for the handling of official information, and any steps the Secretary of Defence has taken in relation to the leaking of Defence information. The State Services Commissioner has the power under the State Sector Act to review the performance of the Ministry in that regard.

Terms of reference

The object of the review is to make an assessment of standards and behaviour in the Defence Force, in the areas of the handling of official information, and relations with government. The review will address the following questions:

- 1 Do senior Defence personnel have clear standards for the handling official information?
 - How do Defence personnel view the leaking of documents and information?
 - Why would Defence personnel leak documents?

- 2 Do senior Defence personnel have clear standards governing their relationship with and obligations to the government of the day? In each case, are those standards –
 - appropriate?
 - reinforced? How are they reinforced?
- 3 Do Defence Force personnel understand those standards. In particular:
 - Do members of the Defence Force understand their obligations in respect of politically neutral service to the government of the day?
 - Do members of the Defence Force understand their obligation to avoid actions and statements that could suggest disloyalty to the policies of the government of the day?
- 4 What action has the Chief of Defence Force taken to review the apparent leaking of information by Defence Force personnel?
 - Was that action appropriate?
- 5 What standards apply in the Ministry of Defence for the handling of official information? What steps has the Secretary of Defence taken in relation to the leaking of Defence information?

Reviewers

Appointed by the State Services Commissioner under s 25(2) of the State Sector Act 1988:

Douglas White QC
Graham Ansell

Timing

The review should be completed by the end of November, if possible, so that the results are available to the review of accountabilities and structural arrangements.

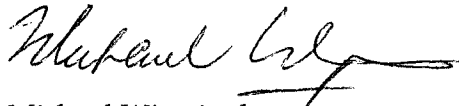
Method

Under section 25 of the State Sector Act, the Commissioner and persons he appoints under section 25(2) have the same powers to summon witnesses and to receive evidence as are conferred on a Commission of Inquiry by the Commissions of Inquiry Act 1908. However, in the light of the terms of reference of the review, the co-operation of the Chief of Defence Force and the Secretary of Defence, and the intended date of completion, it is not anticipated that the reviewers will find it necessary to exercise those powers.

Co-operation with Judge Advocate General

There is the possibility of overlap between this review and matters arising from the inquiry to be carried out by the Judge Advocate General. The Judge Advocate General may wish to refer

information or issues to the State Services Commissioner. Equally, this review may uncover information relevant to the Judge Advocate General's inquiry, in which case that information will be passed to the Judge Advocate General.

A handwritten signature in black ink, appearing to read "Michael Wintringham", with a long, sweeping horizontal flourish extending to the right.

Michael Wintringham
State Services Commissioner