Machinery of Government Policy
GOVERNMENT OF THE COOK ISLANDS

Policy Statement

This Policy specifies how the Machinery of Government is assessed and restructured to achieve the National Sustainable Development Plan (NSDP) goals to benefit the people of the Cook Islands.

The Machinery of Government is the interconnected structures and processes of Government which includes the functions and accountability of various agencies across the Public Sector.

Scope

This Policy applies to all Public Sector Agencies.

Principles

The Public Service Act 2009 identifies the following values for public servants to adhere to:

Honesty	acting honestly, being truthful, and abiding by the laws of the Cook Islands
Impartiality	providing impartial advice, acting without fear or favour, and making decisions on their merits
Service	serving the people well through faithful service to the Government of the Cook Islands
Respect	treating the people, the Government of the Cook Islands, and colleagues with courtesy and respect
Transparency	taking actions and making decisions in an open way
Accountability	being able to explain the reason for actions taken, and taking responsibility for those actions
Efficiency and Effectiveness	achieving good results for the Cook Islands in an economical way

Machinery of Government changes must be aligned to what Government must do, which is largely determined by the Cook Islands Constitution, other legislation and policy priorities of Government reflected in the NSDP.

The NSDP is the national strategic plan representing the country's medium term aspirations that incorporates national, regional and international obligations and commitments.

Legislation and Regulations

Cook Islands Constitution 1964, Public Service Act 2009 and other relevant legislation apply.

Definitions

Agency means any public service department, instrument, or agent of the Government and includes a body corporate or organisation that is wholly owned or controlled by the Crown

Employee means any person who is an employee of the Public Sector

Employer means the Public Service Commissioner and Heads of Public Sector Agencies or their delegated authority

Public Service Commissioner is the Public Service Commissioner (Commissioner) appointed under Article 73 of the Constitution and Section 5 of the Public Service Act

Procedures and Processes

Employers are responsible for administering this Policy and ensuring all policies are easily accessible for employees. Employees must read, understand and adhere to this Policy. Breaches of the Policy may be considered misconduct and offenders be subject to disciplinary action.

Machinery of Government

The 'Machinery of Government' promotes democracy and provides for the separation of powers as three distinct arms of governance: legislature, executive and judiciary. The separation of powers is a fundamental principle of democracy to avoid the concentration of power in the hands of any single arm. Although the separation is not absolute, each Branch has specific functions.

The three Branches include:

- The Legislative arm (Parliament), which makes the laws;
- The Executive arm (Government), which drafts and administers the laws; and
- The Judiciary arm (Courts), which interprets and applies the laws

MACHINERY OF GOVERNMENT		
Queen's Representative		
The three Branches of the machinery		
Legislature	Executive	Judiciary
Speaker and Members of Parliament	Prime Minister Cabinet Ministers and the Public Service	Chief Justice, Judges, and Justices of the Peace
Examines, debates and votes on Bills, which are then assented to by the Queen's Representative and become Acts (Statutes)	Drafts Bills and decides policy, and enforces and administers Acts (carries out policy through Government Agencies)	Interprets and applies the law through the court system
MAKES LAW	**DRAFTS AND ADMINISTERS LAW**	**APPLIES LAW**

The Public Service Commissioner has the legislative mandate under section 6 of the Public Service Act 2009 to review the machinery of Government. The Commissioner can create or disestablish Agencies and their functions to ensure the machinery is fit for purpose and advises Cabinet on:

- What new Agencies should be created and how they should be structured
- Which Agencies to amalgamate or abolish
- What the Agency functions should be
- What Agency functions can be shared, transferred or abolished

Assessing the Machinery of Government

An assessment into the machinery of Government can be instigated by changes to Government policy approved by Cabinet, poor performance or result from inquiries into matters of public administration conducted by the Commissioner. The assessment must adhere to the Cook Islands Constitution and other legislation. Policy priorities include national, regional and international obligations and can impact on the design of the machinery of Government.

There are two broad types of assessments:

1. **A Functional Review** – is a 'horizontal' review of the functions of Government across the machinery to identify and determine where all functions are placed. It aims to highlight where there is duplication, gaps or missing functions for what Government must do.

2. **A Capacity Assessment** – is a 'vertical' review of a specific Agency that includes reviewing the sector in which it operates. It aims to identify 'what' the Agency is mandated to 'do' (policy and legislative mandates) and 'how' it does this through its organisational management (organisational structure, human resource management, financial, information, risk management, including stakeholder communications and relationship management).

Changes to the Machinery of Government:

- Must be well analysed and articulated before being proposed
- Must involve consultation with relevant stakeholders with performance improvement options
- Can be disruptive and costly for agencies and may negatively impact on service delivery and performance, if not managed effectively
- Should not be the first and only option to resolving problems such as poor performance

Undertaking a Functional Review

The Review must assess:
- Functions that Government "must do", "should do", "could do", or "could cease doing"
- The impact if a particular function were to cease
- Whether there are other Agencies that may be more suitable to take on particular functions
- Sector context:
    - legal implications of functions - duplication/overlap, gaps and contractual obligations
    - analysis of the functional or structural requirements of Government
    - international agreements or other developments requiring changes to functions
- Particular systemic issues or problems
- Whether changes to the machinery will result in one or all of the following:
    - a functional structure to improve capability and performance
    - better coordination of information, activities and service delivery
    - improved clarity of roles, responsibilities and governance
    - improved responsiveness to Government policy changes
    - better information flows
    - improved risk management and reduced compliance costs
    - vertical reviews of functions within an Agency and shared or common functions.

Commercial activities of the Government should be carried out by Agencies with commercial objectives e.g. State Owned Enterprises (SOEs):
- Where performance is primarily measured in financial terms and revenue is generated through the sale of goods and services
- Designed to operate as efficient and profitable businesses in trading activities where the private sector is unable or unwilling to do so or where it is in the public interest that the trading activity be provided on a reliable and sustainable basis and can be engaged in fairly and equitably
- Recognising Government's social responsibility in the performance of these functions

Undertaking a Capacity Assessment

The terms of reference for a Capacity Assessment must include:
1. Background
2. Deliverables
3. Proposed work programme
4. Capacity development plan
5. Methodology
6. Timeframe

A copy of the Terms of Reference (ToR) template is attached as Annex 1.

Questions to consider during an Assessment may include:

- Policy and legislative mandates
- Leadership and organisational management
    - Planning and performance accountability
    - Human Resource development
    - Financial, asset, information and risk management
- Stakeholder engagement
- Business processes

A copy of the capacity assessment questionnaire template is attached as Annex 2

Implementing Changes

Completed Assessments must be submitted to Cabinet for endorsement and must include:

- Key findings and recommendations
- Capacity development recommendations
- Proposed budget
- Public release of the report

Agencies are responsible for developing a change management plan to implement the key recommendations of the assessment.

If there are no changes proposed following an assessment, the Public Service Commissioner must provide rationale for this to Cabinet.

Other provisions

All records relating to the administration of this Policy must be kept for at least seven years for access by the employer and/or authorised staff. After the required seven year period, the Department may destroy documentation in adherence with Government official information management policies.

The Office of the Public Service Commissioner is responsible for reviewing and updating this Policy after a year of implementation.

Associated Documents
Agency Restructuring Policy
Redundancy Policy
Code of Conduct Policy

Other information
For Policy queries contact the Office of the Public Service Commissioner on phone (682) 29 421 or email: opscinfo@cookislands.gov.ck

Annex 1 Terms of Reference

1. Background
- Outline of the Ministry's legislative mandates and sector background

2. Deliverables
The review team is expected to produce:
- A Capacity Assessment that analyses what has worked well, gaps and areas for improvement
- A Capacity Development Plan that provides strategies to address the gaps identified with:
  - Strategies and key actions for each of the key area
  - The costs for key actions

3. Proposed Work Programme
3.1 The Capacity Assessment involves analysing:
- Policy and legislative mandates ('what') the Agency 'must do'
- Organisational management ('how') the Agency does what it must do
- Leadership and management
- Organisational culture
- Human resource management
- Financial, information and risk management
- Stakeholder engagement (Communications and relationship management)

3.2 The Capacity Development Plan:
The Capacity Development Plan will elaborate on strategies and actions. Strategies must:
- Improve service delivery and support systems of the Agency its mandates
- Strengthen policy, planning, research and reporting by the Agency
- Build a culture of accountability and performance excellence within the Agency
- Engage with all key stakeholders within the sector and wider community

4   Methodology
The methodology includes:
- Literature review – performance, audit and other relevant reports and reviews
- Interviews with key stakeholders
- Research on sectors and other reviews in 'similar' jurisdictions

The review team will comprise:
- OPSC staff
- National Technical Assistance (where required)

The process should:
- Recognise the potential for efficiencies to be achieved
- Ensure local staff skills and potential are identified

5   Timeframe
The timeframe for the review is generally up to one month, influenced by the mandates of the Agency and composition of the review team and available of key stakeholders.

Annex 2 Capacity Assessment Questions

Policy and legislative mandates (What does the Agency do?)
- What current legislation, regulations and international commitments exist?
  - Are they adequate? Are there any gaps? What changes are required (if any)?
- Which Government Agencies/stakeholders are responsible for core functions? Which Agencies are support Agencies and who are the key stakeholders in the Agency's sector?
- What current institutional arrangements and co-ordination mechanisms exist? Are they effective?
- What strategic policies/plans are in existence and how well are these being implemented?
- Does the agency have a strategic plan aligned to the NSDP and annual business-plans?
  - Are these plans clear and do they have SMART goals/targets?
  - Are key stakeholders identified and are their roles clear?
- What operational policies are in existence and how well are these being adhered to?
- How well are these policies monitored and evaluated?
- Are there policy areas that could be improved? If so, can you provide examples?

Leadership and organisational management (How well does the Agency do its work?)
Planning and performance accountability
- Does the Agency organisational structure reflect its mandates, policies and plans?
- What are the strengths and weaknesses of the current organisational structure?
- What changes could be made to improve the organisational structure of agency?
- How well does senior management (SMT) understand the Ministry's functions and the Government planning, budgetary and performance management systems?
- Can the SMT develop a workforce plan for the ministry? Is external assistance required?
- How well does the SMT lead staff to perform and achieve the Agency's annual business plan?
- How well is the Agency monitoring and evaluating its policies and programmes?
- What challenges exist and how can these be mitigated?

People development
- How are good employer principles being practiced within the Agency?
- How are staff recruited to deliver the Agency's functions?
- Does the Ministry run all new staff through an induction programme?
- Are the Ministry values promoted and understood by al staff?
- Do staff understand their roles?
- Do staff have performance agreements/targets?
- How are high, medium and poor performers managed?
- Do staff have individual training and development plans?
- Is there limited staff capacity in certain areas? If so, what functions/areas?
- What is the Ministry plan for addressing these limitations?

Financial, resource, information and risk management
- Does the Ministry meet its obligations under the MFEM and PERCA Acts?
- Have prior year audit issues been addressed? Are strong internal controls in place?
- Financial forecasting/management - does the Agency know what its costs are for implementing its functions (personnel, operating and CAPEX costs) and has it quantified the risks of being under-resourced?
- Does the Agency have a risk management plan?
- Does the Agency have an information management plan with lead persons in charge?
- Does the Agency have a communications plan in place?

Stakeholder engagement
- Does the Ministry have a stakeholder management plan with lead persons in charge?
- How well does the Agency work with stakeholders to deliver better outcomes?
- How well does the Agency support the work of other agencies?
- What systems are in place to enhance service delivery and customer satisfaction?
- What challenges exist and how can these be mitigated?

Business processes
- Does the Agency have standard operating procedures (SOPs) for its key functions and outputs?
- If not, is there a plan to ensure these SOPs and processes are documented?