Submission of Oral Item

Government Inquiry into the Appointment Process for a Deputy Commissioner of Police: extension of time

1. The Government Inquiry into the appointment process for a Deputy Commissioner of Police (the Inquiry) is due to present its final report on 28 September 2018 and has requested a five week extension to enable it to:
   a. interview all the 44 people that have approached the Inquiry; and
   b. consider the issue of the bullying allegations regarding the Deputy Commissioner of Police that have been made public and are within the scope of the Inquiry’s Terms of Reference.

2. The Department estimates that an increase in funding of $0.114m is required.

Previous Cabinet Decisions

3. On 9 July 2018, Cabinet agreed [CAB-18-MIN-0334 refers]:
   a. to establish a Government Inquiry into the Appointment Process for a Deputy Commissioner of Police;
   b. that the Inquiry run for a maximum of six weeks with one Inquiry member;
   c. that the report back will be within six weeks from the date of establishment; and
   d. the cost of the Inquiry should be no more than $0.150 million.

4. Cabinet also noted that should additional expenditure be required during the Inquiry, the Minister of Internal Affairs, in consultation with the Minister of State Services, will report back to Cabinet to seek agreement to additional funding.

Bullying allegations have implications for the Inquiry

5. Since the commencement of the Inquiry, allegations of bullying have been raised against the Deputy Commissioner of Police and made public. As a result an IPCA inquiry is now underway.

6. On 9 August during Parliamentary question time the Hon Grant Robertson on behalf of the Prime Minister and the Hon Chris Hipkins on behalf of the Minister of Internal Affairs both indicated that the bullying allegations fall within the scope of the Inquiry’s Terms of Reference.

7. On 27 August the Inquiry published a minute confirming the allegations will be considered in the course of the Inquiry and reported on in accordance with the Terms of Reference.

8. Within the scope of the Terms of Reference the Inquiry’s role is to answer whether all relevant information was properly provided to, or gathered by, the State Services Commission during the appointment process (and if not, why not). If an applicant for
Deputy Commissioner of Police has been subject to allegations of bullying, there might be information in that category, depending on the particular facts.

9. The Inquiry’s findings and recommendations will depend on the facts it determines in relation to the alleged bullying, how it was dealt with (if it was), who had relevant information, and who ought to have had and passed on that information.

10. The Inquiry has requested a five week extension to the original timeframe to consider the bullying allegations as part of its broader investigation. This equates to a total extension of 25 working days and a report-back date of 2 November 2018.

11. The Department has consulted with the Inquiry to understand the extension request and assess the request as reasonable. While the Inquiry may be able to deliver within the original timeframe, this creates a significant risk for the quality of the final report and recommendations.

12. The Inquiry considers that adhering to the original timeframe and reporting by the 28 September would result in a failure to fulfil the obligations of an Inquiry under the Inquiries Act 2013 (the Act) to follow a fair procedure in the time remaining (2 weeks).

13. The option of a two week extension was considered with the Inquiry. This would result in disregarding the bullying allegations as relevant to the appointment process. Such an approach is considered likely to be unsatisfactory for everyone, especially the people who have come forward to the Inquiry.

**The proposed extension details**

14. The Inquiry is due to present its final report on 28 September 2018. The Inquiry now requests a five week extension to Friday 2 November 2018.

15. Cabinet previously approved the Inquiry’s budget of $0.150 million in July 2018 [CAB-18-MIN-0334 refers]. Additional funding of $0.114 million is now also sought.

16. This comprises:

<table>
<thead>
<tr>
<th>Item</th>
<th>2018/19 Costs ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inquiry member fees</td>
<td>35,000</td>
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<tr>
<td>Legal fees</td>
<td>42,500</td>
</tr>
<tr>
<td>Personnel costs</td>
<td>15,615</td>
</tr>
<tr>
<td>Transcription</td>
<td>17,000</td>
</tr>
<tr>
<td>Other costs</td>
<td>3,700</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>113,815</strong></td>
</tr>
</tbody>
</table>

17. This budget assumes:
   - the Inquiry member and assisting Counsel will work full-time for the five week extension; and
   - the Inquiry will continue to be supported by one secretariat member until it concludes.
Funding

18. The Department of Internal Affairs has no standing baseline funding to support government inquiries, and in the absence of new funding, the Department would face fiscal pressures and risks to the delivery of services.

19. Accordingly, I am seeking approval for a $0.114 million increase to Vote Internal Affairs appropriations for 2018/19 to cover the cost for the extension of the Inquiry, which consists of:
   - $0.035 million in fees for the Inquiry member; and
   - $0.079 million for the Inquiry personnel, Counsel assisting, and other operating costs.

20. The options available to fund the Inquiry's extension are either from Vote Police, or alternatively, new funding from the between-Budget contingency, established as part of Budget 2018.

21. The Inquiry was originally funded by a transfer of funding from Vote State Services to Vote Internal Affairs. The Department has consulted with the State Services Commission regarding funding the Inquiry's extension. The State Services Commission is unable to identify funding within its existing appropriations to fund the Inquiry's extension.

22. Vote Police may be an appropriate funding source as the rationale for the Inquiry's extension relates to the consideration of the bullying allegations, which fall within Police's remit. Department officials have commenced consultation with Police regarding funding the extension of the Inquiry.

23. The Minister of State Services and I have discussed the funding of the Inquiry’s extension and suggest that Vote Police is an appropriate source. The Minister of Police has been informed of this approach.

24. If Vote Police is to fund the Inquiry, I am seeking Cabinet’s agreement that the Minister of Finance, myself, as the appointing Minister and the Minister of Police, have the Power to Act to finalise the transfer of funding from Vote Police to Vote Internal Affairs. The Power to Act is necessary as Police will not yet have had the opportunity to determine the specific appropriation from which to fund the Inquiry.

25. If the Inquiry's extension is not funded from Vote Police, I propose that the funding be charged against the between-Budget contingency, established as part of Budget 2018. Cabinet Circular CO 18(2) requires that funding from the between-Budget contingency cannot be deferred until the next budget, the funding cannot be found through re-prioritisation, and the funding proposal should be supported with the same degree of information as a budget proposal:
   a. the funding requirement is urgent as the Inquiry requires its extension to complete its substantive work, and would otherwise run out of funding on 28 September 2018;
   b. the Department has no standing baseline funding to support government inquiries and the funding cannot be found through reprioritisation;
c. approval of funding cannot be deferred to Budget 2019 because funding is required immediately to ensure that the Inquiry can continue its work and complete its report-back; and

d. the need for the extension is demand driven by the Inquiry’s need to interview all people relevant to its Terms of Reference.

26. For all funding options, the changes to appropriations for 2018/19 will be included in the 2018/19 Supplementary Estimates for Vote Internal Affairs and the increases will be met from Imprest Supply in the interim.

27. If the Inquiry’s expenditure is lower than budgeted at the end of the Inquiry, any unspent funding associated with the Inquiry will be returned to the source of funding.

28. If any further funding is required by the Inquiry, the Department will report back to Cabinet to seek agreement to additional funding.
Recommendations

We recommend that you:

1. note that on 9 July 2018, Cabinet agreed to establish a Government Inquiry into the Appointment Process for a Deputy Commissioner of Police;
2. note that the Inquiry has identified the public bullying allegations as an issue for it to consider;
3. note that many more people than originally thought have come forward (44 to date), almost half of them as a result of the bullying allegations, and the Inquiry wants to interview all of them;
4. note that the Inquiry has requested an extension of five weeks, which would defer its final report back until 2 November 2018;
5. agree to the Inquiry’s request for a five week extension to complete its report back and recommendations;
6. note the Department of Internal Affairs has no standing baseline funding to support government inquiries, and in the absence of new funding for the extension of the Inquiry, the Department would face fiscal pressures and risks to the delivery of services;
7. note the forecasted cost to extend the Inquiry for five weeks until 2 November 2018 is $0.114 million comprising: $0.035 million in fees for the Inquiry member, and $0.079 million for Inquiry staff, Counsel assisting, and operating costs;
8. agree to increase funding in Vote Internal Affairs in 2018/19 to meet the costs of the extension for the report back of the Government Inquiry into the Appointment Process for a Deputy Commissioner of Police;
9. note that the funding of the Inquiry’s extension is urgent, cannot be met from Department baselines, cannot be deferred until Budget 2019 and is driven by the requirements of the Inquiry;
10. note the Minister of State Services and Minister of Internal Affairs have discussed the source of funding for the Inquiry’s extension and suggest Vote Police as the funding source; and
11. approve the following changes to appropriations to meet the costs of the Inquiry, with a corresponding impact on the operating balance;
<table>
<thead>
<tr>
<th>Vote Internal Affairs Minister of Internal Affairs</th>
<th>2018/19</th>
<th>2019/20</th>
<th>2020/21</th>
<th>2021/22</th>
<th>2022/23 &amp; Outyears</th>
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</thead>
<tbody>
<tr>
<td>Multi-Category Expenses and Capital Expenditure:</td>
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<tr>
<td>Support for Statutory and Other Bodies MCA</td>
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<td></td>
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<td></td>
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<tr>
<td>Departmental Output Expense:</td>
<td></td>
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<tr>
<td>Commissions of Inquiry and Similar Bodies</td>
<td>0.114</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>(funded by revenue Crown)</td>
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<tr>
<td>Non-Departmental Other Expense:</td>
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<td></td>
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<tr>
<td>Public Inquiries</td>
<td>0.035</td>
<td>-</td>
<td>-</td>
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<td>-</td>
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<tr>
<td>Total Operating</td>
<td>0.114</td>
<td>-</td>
<td>-</td>
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</tbody>
</table>

12. agree that the proposed changes to appropriations for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply; and EITHER:

12.1 agree the expenses incurred under recommendation 11 above be funded from Vote Police;

12.2 authorise that the Minister of Finance, the Minister of Police and the Minister of Internal Affairs have the Power to Act to finalise the transfer of funding from Vote Police to Vote Internal Affairs.

OR:

12.3 agree that the expenses incurred under recommendation 11 above be a charge against the between-Budget contingency, established as part of Budget 2018;

13. agree that if the Inquiry's expenditure is lower than budgeted, any underspend associated with the Inquiry be transferred back to the source; and

14. note that should any additional expenditure be required during the Inquiry, Ministers will report back to Cabinet to seek agreement to additional funding.