

Inquiry into immigration matters

Volume 2: Public sector
recruitment processes
involving Mary Anne
Thompson and related issues

This is Volume 2 of an independent
report about an audit and inquiry
carried out under sections 16 and 18
of the Public Audit Act 2001.

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Auditor-General's overview

In May 2008, the then Prime Minister and the then Minister of Immigration asked me to carry out an inquiry into a range of integrity concerns arising out of Immigration New Zealand, which is part of the Department of Labour.

The request was in response to various concerns that had been discussed in the public domain. These included:

- the operations of Immigration New Zealand's Pacific Division and incidents involving certain senior personnel;
- the conduct of Mary Anne Thompson, the former Deputy Secretary (Workforce) and head of Immigration New Zealand; and
- how the concerns had been handled by others, including successive chief executives of the Department of Labour, the State Services Commissioners, and Ministers.

There were many different strands to the concerns, and in 2008 a number of separate reviews and investigations were beginning. The request to me sought a comprehensive review of events by an independent agency, so that Parliament and the public could be given an independent assessment of the way in which the sector had dealt with the concerns.

I am reporting my findings in two volumes:

- Volume 1 covers Immigration New Zealand's visa and permit decision-making and related issues; and
- Volume 2 (this volume) covers the public sector recruitment processes involving Ms Thompson and the handling of recruitment-related concerns.

Public sector recruitment processes involving Ms Thompson

When concerns were raised about matters of integrity in Immigration New Zealand, it was also suggested that Ms Thompson did not have the doctorate degree (PhD) that she claimed to have.

I included within the scope of my inquiry the public sector recruitment processes involving Ms Thompson. It is unusual for my Office to inquire into employment matters, particularly when they relate to individuals and to the recruitment of potential chief executives. But the concerns around Ms Thompson raised questions about whether employment responsibilities, including recruitment processes, were being managed effectively and efficiently. The way in which the public service recruits and manages its staff underpins its general ability to operate effectively, efficiently, and appropriately. It is also an activity in its own right that needs to be carried out well, at every level.

This volume of the report discusses the processes used by different public entities to recruit Ms Thompson, including how the uncertainty about her claim to have a PhD was handled. It aims to provide Parliament and the public with a clear description of events, including the steps that various people took and the judgements that were made at the time.

Recruitment processes from 1989 to 1998

The processes used to recruit Ms Thompson into roles at Manatū Māori, the Treasury, and the Department of the Prime Minister and Cabinet (DPMC) between 1989 and 1998 appear to have been reasonably standard. They reflected practices commonly used at the time and it seems unlikely that her PhD qualification was checked for these roles.

Process for recruitment of chief executive to the Department of the Prime Minister and Cabinet, 2004

In 2004, Ms Thompson applied for the position of chief executive at DPMC. She was a senior employee of DPMC at the time and the Acting Chief Executive. The process was carried out on behalf of the then State Services Commissioner, Michael Wintringham.

Ms Thompson withdrew part way through the recruitment process. We reviewed the part of the process involving Ms Thompson, and it appeared standard. During this process, Mr Wintringham became aware of an uncertainty about Ms Thompson's claim to hold a PhD. In response, he actively sought and received a direct assurance from Ms Thompson that she did have a PhD qualification, and took no further action at the time. He told us he considered that her withdrawal from the recruitment process meant that he no longer had a mandate to continue qualification checks.

With hindsight, it would have been preferable for Mr Wintringham to consider the issue more broadly in the light of the expectations on public service employers and in the context of the State Services Commissioner's overall responsibility for standards of integrity and conduct across the public sector, rather than as part of a single appointment process. In our view, Mr Wintringham should have taken the matter further, either personally or by passing the information on to his successor. However, we acknowledge the limitations that he believed he was under, that his term as State Services Commissioner was about to end, and that he was handling many other complex issues.

When the concerns about activities at Immigration New Zealand and Ms Thompson were publicly reported in May 2008, Mr Wintringham contacted the then State Services Commissioner about the previous uncertainty about Ms Thompson's PhD.

Process for recruitment to the Department of Labour, 2004

After withdrawing from the recruitment process for the role of chief executive of DPMC, Ms Thompson applied for the role of Deputy Secretary (Workforce) at the Department of Labour. The process appears to have been reasonably standard, but there were some aspects of the process that departed from good practice. I do not consider that these departures had a significant effect on the outcome of the process.

The Department of Labour used a consultant, a contestable process, an interview panel, and reference checks. Although Ms Thompson was interviewed by the panel, her late application bypassed the consultant's usual process without any documented rationale for this, and records were not retained by the Department of Labour. The offer of employment to Ms Thompson was made before reference checks were carried out, and the offer was not conditional on the outcome of the reference checks. Even though Ms Thompson had previous public sector experience, this deviated from my expectations of good practice. However, my findings are limited to this one recruitment process.

The then chief executive of the Department of Labour and Ms Thompson's employer, Dr James Buwalda, became aware from Mr Wintringham in 2007 that a question had previously arisen about Ms Thompson's PhD. This was in the context of an external review Dr Buwalda was commissioning into some immigration decisions for family members of Ms Thompson (discussed in Volume 1). At this time, Mr Wintringham was a member of the Department of Labour's Audit Committee. Dr Buwalda did not believe that there was an outstanding issue to be resolved, and so did not do anything with this information. With hindsight, it would have been helpful for this information to have been passed on to Dr Buwalda's successor.

Ministers' knowledge of the PhD uncertainty

Ministers were not aware of the PhD uncertainty until just before it became public in May 2008. That is consistent with the norms governing when it is appropriate for Ministers to be informed about employment matters in the public service.

Timely reminder for all employers within public entities

This case illustrates that it is important for all public sector employers to consider the general and specific approach they take to verifying the information presented in a curriculum vitae (CV). They also need to be aware of the link between these procedural steps in recruitment processes and the broad collective role they play in safeguarding the integrity of the public sector.

The extent of checks required is likely to vary depending on the seniority of the role and the nature of the experience and qualifications needed. The applicant's previous work history may also be relevant. However, each entity within the public sector is a distinct organisation, and each chief executive is responsible for their employment practices. An individual having previously worked in the public sector cannot be a reason for not carrying out a proper recruitment process with the appropriate checks.

It is reasonable to expect a more robust approach to be taken for chief executive and senior positions than for other positions, given the leadership and management role they have in an organisation. Although the checking processes may at times appear mundane, those making senior appointments need to be aware of the risk that incorrect information in a CV potentially raises a question about an applicant's integrity. For senior public sector roles, that is a risk that needs to be scrupulously managed. In fairness to the individuals, it is important to dispel a question if it is unfounded. For the organisation, and for the sector as a whole, it is important to ensure that any integrity risk raised by a credible source is addressed.

Conflicts of interest

When I started my inquiry, I knew that the Deputy Auditor-General and some of my staff members had conflicts of interest with this inquiry. To manage these conflicts of interest, I ensured that these individuals were not involved in establishing the terms of reference or conducting the inquiry and changed relevant reporting lines for the duration of the inquiry. The Deputy Auditor-General was interviewed as part of the inquiry investigations. The interview was led by a barrister whom we instructed for this purpose.

I thank the many people who co-operated with this inquiry.



K B Brady
Controller and Auditor-General

27 May 2009

Part 1

Introduction

- 1.1 In this Part, we explain:
- how our inquiry came about;
 - the scope of our inquiry;
 - how we carried out this part of our inquiry; and
 - Ms Thompson’s career history in the public sector.

How our inquiry came about

- 1.2 In May 2008, the then Prime Minister and the then Minister of Immigration asked the Auditor-General to look into various concerns and allegations about Immigration New Zealand, a business unit within the Department of Labour.
- 1.3 Concerns and allegations had arisen in the public domain about:
- the operations of Immigration New Zealand’s Pacific Division and incidents involving certain senior personnel;
 - the conduct of Mary Anne Thompson, the former Deputy Secretary (Workforce)¹ within the Department of Labour; and
 - how any integrity concerns had been previously handled by others, including successive chief executives of the Department of Labour, State Services Commissioners, and Ministers.
- 1.4 The Auditor-General agreed to carry out an inquiry, and released the terms of reference on 4 June 2008 (see the Appendix).
- 1.5 The terms of reference acknowledged that other agencies were carrying out related work. We did not seek to duplicate those individual processes, but to clearly and comprehensively assess what had taken place.
- 1.6 Since we began our inquiry, the State Services Commission (SSC) has released its report on the Department of Labour’s response to concerns about immigration matters involving family members of Ms Thompson.² The New Zealand Police also investigated Ms Thompson’s claim to have a doctorate degree (PhD), and in November 2008 she was charged with three offences under the Crimes Act 1961.³ An external review commissioned by the Department of Labour into Immigration

¹ In this role, Ms Thompson was the head of Immigration New Zealand from 2004 until 2008.

² State Services Commission (2008), *Investigation of the Handling by the Department of Labour of Immigration Matters Involving Family Members of the Head of the New Zealand Immigration Service*, State Services Commission, Wellington.

³ The charges are under sections 228 and 229A of the Crimes Act 1961, and relate to claims Ms Thompson made in 1989, 1998, and 2004 about holding a PhD.

New Zealand's Pacific Division was released by the Minister of Immigration in early March 2009.⁴

Scope of our inquiry

- 1.7 The terms of reference for our inquiry stated that we would inquire into:
- the integrity and probity of decision-making systems, processes, and practices within Immigration New Zealand, especially within its Pacific Division, including whether such practices generally comply with relevant law, policies, procedures, and public sector ethical standards;
 - particular situations that raise concerns about the integrity of senior immigration staff;
 - the processes used to recruit Ms Thompson within the public sector;
 - the awareness and management of concerns about integrity issues at Immigration New Zealand (including about Ms Thompson) by the Department of Labour, the SSC, and Ministers; and
 - any other issues that the Auditor-General considers relate to, or arise out of, the above matters.
- 1.8 This volume (Volume 2) covers the public sector processes used to recruit Ms Thompson and the handling of recruitment-related concerns. Volume 1 covers Immigration New Zealand's visa and permit decision-making and related issues.

How we carried out this part of our inquiry

- 1.9 We reviewed documentation from the recruitment processes used by the various public entities that have employed Ms Thompson.
- 1.10 We interviewed most of the individuals who were involved in these processes. A few we were unable to contact, which is unsurprising given that these matters go back 20 years. We have also interviewed the people who held the posts of Minister of Immigration and Associate Minister of Immigration between 2002 and 2008, the current State Services Commissioner and two former State Services Commissioners, and staff of the SSC.
- 1.11 We reviewed good practice material on recruitment, including that issued by the SSC.⁵ We also discussed good practice in recruitment with some recruitment and human resources practitioners.
- 1.12 As part of our usual inquiry process, we gave all the affected parties a chance to comment on a draft version of this report.

4 Ernst & Young (2008), *Department of Labour Pacific Division Review: Final Report*, Minister of Immigration, Wellington.

5 State Services Commission (June 2007), *Leading Practice Selection Tools in the State Services*, Wellington.

Ms Thompson's career history in the public sector

- 1.13 Ms Thompson began her public sector career in 1990 after working in the private sector for about a decade. In the public sector, she has worked in a range of policy and management roles. Ms Thompson became well known and highly respected in the public service. She was regarded as having skills and experience in a number of difficult fields of public policy.

Figure 1
Public sector roles held by Ms Thompson

	1990 to 1992	1992 to 1998	1998 to 2004	2004 to 2008
Permanent positions	Manatū Māori <i>Manager, Economic Development</i>	The Treasury <i>Various</i>	Department of the Prime Minister and Cabinet <i>Director, Policy Advisory Group</i>	Department of Labour <i>Deputy Secretary (Workforce)</i>
Secondments	Office of the Minister of Māori Affairs	Office of the Treasurer and Associate Treasurer Office of the Deputy Prime Minister and Treasurer Office of Treaty Settlements Office of the Chief Crown Negotiator for Minister in charge of Treaty Negotiations Department of the Prime Minister and Cabinet		
Acting roles			Acting Chief Executive (March- June 2004)	

- 1.14 In late 1989, Ms Thompson applied for, and was offered, a job at Manatū Māori, the Ministry of Māori Affairs. She started working for Manatū Māori in January 1990. While there, she was seconded to the office of the Minister of Māori Affairs.
- 1.15 In 1992, Ms Thompson was employed by the Treasury. During her time at the Treasury, she had a number of internal transfers, promotions, and secondments.

The secondments included the Office of the Deputy Prime Minister and Treasurer in 1997, and the Department of the Prime Minister and Cabinet (DPMC) from August 1998.

- 1.16 In December 1998, Ms Thompson was permanently appointed to DPMC, in a second-tier management position (as Director of the Policy Advisory Group). From March 2004 to June 2004, she was Acting Chief Executive at DPMC. In April 2004, she applied for the permanent position of chief executive at DPMC, but then withdrew her application. It was during this recruitment process that an uncertainty arose about her claim to have a PhD.
- 1.17 On 24 May 2004, Ms Thompson was appointed to the position of Deputy Secretary (Workforce) at the Department of Labour, starting on 19 July 2004. In that role, she was effectively the head of Immigration New Zealand and reported directly to the chief executive of the Department of Labour. Ms Thompson resigned from the Department of Labour on 12 May 2008.

The uncertainty about Ms Thompson's PhD

- 1.18 We outline in Part 3 how an uncertainty arose about Ms Thompson's claim to have a PhD during the recruitment process in 2004 for the chief executive role at DPMC. This recruitment process was carried out on behalf of the then State Services Commissioner, Michael Wintringham.
- 1.19 Ms Thompson told us that, for most of the 1980s, she was enrolled at the London School of Economics (LSE), working towards a doctoral thesis. She carried out much of that study extramurally, at times while she was living in Kiribati. She finished her studies with the LSE in 1989 and submitted her thesis. However, the degree was never conferred. Ms Thompson told us that for many years she believed the degree had been conferred, and that she found out in 2004 that there was no record of it being conferred.
- 1.20 In May 2008, a national newspaper printed a story about Ms Thompson, alleging that preferential treatment had been given to residence applications from her relatives in Kiribati. After reading this, Mr Wintringham told the then State Services Commissioner, Dr Mark Prebble, about the uncertainty that arose in 2004 about Ms Thompson's claim to have a PhD. Mr Wintringham told us that, in the light of the questions then being raised about Ms Thompson's judgement and integrity, he decided that the assurance she had given him in 2004 that she did have a PhD should be revisited.
- 1.21 In May 2008, Dr Prebble alerted Christopher Blake, the current chief executive of the Department of Labour, to the question about Ms Thompson's qualifications. Ms Thompson resigned a few days later.

- 1.22 The then Deputy State Services Commissioner subsequently referred the matter to the Police.⁶
- 1.23 Other than the individuals discussed in this report, people we interviewed in the Department of Labour, the SSC, and Ms Thompson's former workplaces told us that they were unaware of the uncertainty about the PhD until this matter became public knowledge in May 2008.

⁶ As Dr Prebble had been responsible, as Chief Executive of DPMC for Ms Thompson's appointment as Director of the Policy Advisory Group in 1998, he stood aside from the SSC's consideration of Mr Wintringham's disclosure.

Part 2

Verifying qualifications and handling potential integrity concerns

- 2.1 In this Part, we discuss our expectations about:
- verifying qualifications in the public sector; and
 - handling potential integrity concerns that may emerge during recruitment processes.

Verifying qualifications

Public sector employers should consider whether to verify the qualifications that job applicants claim, based on what is appropriate for the organisation and the role.

- 2.2 We spoke to a number of recruitment and human resources practitioners to understand what is reasonable to expect of processes to check academic qualifications. We also reviewed good practice guidance material about recruitment, including that issued by the SSC.
- 2.3 When a person applies for a job, they are making certain representations about themselves (including their skills, experience, qualifications, and behavioural styles). Applicants' details and claims in their curriculum vitae (CV) must be truthful and accurate. The employer can act if they discover that those claims are wrong. However, the employer does not have to actively check all details in a CV unless there is good reason to do so.
- 2.4 While we were told by some sources that every detail in a CV must be checked, others told us that the focus is on testing the candidate's suitability for the position. For example, the employer (or their consultant) may focus not on qualifications but on other details, such as claims about relevant work experience. We were also told that checking involves judgement and is based on risk. For example, more checks are likely to be carried out for an unknown or overseas candidate than for a candidate with an established reputation in New Zealand.
- 2.5 Some people that we spoke with during our inquiry noted that, in the employment environment that existed more than 20 years ago, checking qualifications was important. Qualifications directly determined the appropriate salary grade for an employee in the public service. However, remuneration no longer works like that in many jobs.
- 2.6 Some also noted that the public service may still be perceived as a single employing entity. In that case, a person moving from one department to another may be seen as moving internally, and may to a greater extent be taken on trust. In practice, the public service is close and collegial. Considerable emphasis is placed on collaboration, including the collective development of senior leadership

capability. However, that does not remove the formal responsibility that each chief executive has under the State Sector Act 1988 for employing their own staff.

- 2.7 Some people also noted that the public sector started to pay more attention to qualifications after a high-profile scandal in 2002 involving the inaugural Chief Executive of the Māori Television Service.
- 2.8 We looked at each of the recruitment processes involving Ms Thompson before 2004 to determine whether the uncertainty about her PhD should have been identified. These processes are discussed in Part 3. We also considered whether these processes raised any common causes of concern about public sector recruitment practices.
- 2.9 We do not expect all recruitment processes in the public sector to verify every academic qualification that an applicant claims to have. Rather, each employing entity has to decide what approach is most suitable for it, both generally and for specific positions. In our view, a case-by-case assessment based on risk is appropriate.
- 2.10 The extent of checks required is likely to vary depending on the seniority of the role and the experience and qualifications needed for the role. The applicant's previous work history may also be relevant. However, each entity within the public sector is a distinct organisation, and each chief executive is responsible for their employment practices. The fact that an individual has previously worked in the public sector does not excuse a public entity from carrying out a proper process with the appropriate checks.
- 2.11 It is reasonable to expect a more careful and thorough approach for the appointment of a chief executive and senior positions because of the leadership and management role they have in an organisation. They are also the visible face of the public sector, and must be able to withstand scrutiny.

Handling potential integrity concerns

We would expect that, whenever a concern is raised by a credible source that may question the integrity of a public sector employee, the matter will be investigated.

- 2.12 Generally, we would expect that when concerns are raised by a credible source that may question the integrity of an employee, that those concerns will be properly investigated. If the suspicion is unfounded, then in fairness to the employee the doubt that has been raised should be removed. However, if the matter does demonstrate a lack of integrity, then appropriate action should be taken. This would usually be by the employer. In our view, this approach applies to recruiting all public sector employees, but especially to those in senior positions.

- 2.13 We accept that it may not be essential to resolve the potential integrity concern in order to conclude the recruitment process. Nonetheless, we consider that it is important for all those responsible for employment decisions to maintain a broad view of their collective responsibility for ensuring the overall integrity of the public sector. Working to maintain public trust in government organisations is a fundamental responsibility for all chief executives, and is an area where the SSC has specific leadership responsibilities. The public is entitled to expect that there will be a low tolerance of risk in relation to integrity questions within the public sector, particularly at a senior level.

Part 3

Recruitment processes and the PhD uncertainty

- 3.1 In this Part, we discuss:
- the recruitment processes involving Ms Thompson from 1989 to 1998, when she joined Manatū Māori, the Treasury, and DPMC;
 - Ms Thompson’s application for the role of chief executive of DPMC;
 - Ms Thompson’s appointment to the Department of Labour in 2004; and
 - what Ministers knew about the uncertainty over Ms Thompson’s PhD.
- 3.2 Our work has not identified any cause for concern about general recruitment practices in the public sector. However, qualifications were not always checked in the recruitment processes we looked at. Ms Thompson’s story shows that it is important for employers to consider the general approach they take to verifying CVs for appointments, how they approach particular roles, how they should approach any integrity concerns that emerge during appointment processes, and how they implement appropriate systems and procedures to do so. The approach should be appropriate to the nature of the organisation and the specific role.

Recruitment processes from 1989 to 1998

There was little remarkable about the process used to recruit Ms Thompson into public entities between 1989 and 1998, and it is unlikely that the PhD qualification was checked.

- 3.3 The recruitment processes used between 1989 and 1998 appear to have been reasonably standard. For the role at DPMC, there is clear evidence that the recruitment process was a formal competitive process, including written applications, an interview panel, reference checks, and records of the recruiter’s assessment and decision. The process was well documented. For the earlier jobs, little documentation now exists, which is unsurprising, and the memories of those involved are understandably vague. However, based on our interviews, it seems likely that similar processes were followed.
- 3.4 The CV that Ms Thompson submitted in November 1989 to Manatū Māori referred to a PhD in “International Politics Economy” from the LSE. Her CVs for subsequent job applications to the Treasury in 1992 and DPMC in 1998 mentioned a PhD in “International Political Economy” from the LSE. She was regarded by many of her colleagues as holding a PhD, and from time to time she was referred to as Dr Thompson.

- 3.5 People we interviewed could not recall whether Ms Thompson's qualifications would have been checked, but they generally doubted it. They would not expect it in a case such as this, where:
- the academic qualification was not critical to the position (as opposed to, for example, a person applying for a position as a lawyer, where particular formal qualifications are necessary);
 - the applicant was known to them (rather than being someone from the private sector or overseas); and
 - the applicant had been in the workforce a long time and so was primarily assessed on their skills and experience gained from their work (as opposed to a new graduate who has no relevant work experience).
- 3.6 It is not clear whether any checking of qualifications took place for the roles at Manatū Māori in 1989 or the Treasury in 1992. It is unlikely that the qualifications were verified for the DPMC role in 1998. These recruitment processes took place before the uncertainty arose in 2004 about Ms Thompson's claim to hold a PhD.
- 3.7 We accept that recruitment involves judgement and that it is appropriate to concentrate effort on testing the critical competencies for the role. From the information available to us (which was limited in some cases), we see no reason to question the judgements formed.
- 3.8 We do not criticise how Ms Thompson was recruited to Manatū Māori, the Treasury, or DPMC. The processes followed in these cases seem to reflect the practices commonly used at the time.
- 3.9 There were no doubts raised with us about Ms Thompson being a credible candidate or about her overall suitability for any of her roles.

Relevance of a PhD

- 3.10 Facts and qualifications are included in a job application to provide the prospective employer with a favourable impression of the applicant. In our view, the reference to a PhD in Ms Thompson's CV would have enhanced her overall attractiveness as a candidate. It is one of the highest academic qualifications available, and carries with it a reputation for academic excellence. But it does not appear that the PhD was ever a particular focus of those who were considering employing her, for two main reasons. First, the PhD was not a prerequisite for any of her roles, and its subject matter was not critical. Employers we spoke to did not recall discussing or considering it when weighing up her application. Secondly, Ms Thompson was not a new university graduate seeking her first professional job. She was of interest to the prospective employers because of the skills and

experience she had gained during her working career, rather than her academic qualifications. Many people we interviewed emphasised these points.

- 3.11 When Ms Thompson applied for the job at Manatū Māori, she already had a substantial amount of work experience. Ms Thompson told us that she was approached about this role by Manatū Māori. The then Chief Executive of Manatū Māori recalls that Ms Thompson's previous work on Māori issues and her background with the New Zealand Institute of Economic Research might have initially brought her to their attention.
- 3.12 For the subsequent jobs, her educational qualifications would have become increasingly less relevant. As she became more experienced, she was recruited more and more because of her work and reputation as a senior policy advisor and an effective public servant. She would have been well known already to her prospective employers.

Informal recruitment processes

- 3.13 A number of Ms Thompson's positions within the public sector were temporary arrangements such as secondments (and in one instance an acting position), rather than permanent appointments. Secondments meet an urgent and important business need, or provide a career development opportunity for an individual. Because of these factors, and because there is no change in employer, normal recruitment processes are often not followed. The agreed arrangement would be documented, but there would not necessarily be a formal application, interview, or submission of a CV, and no element of competition against other candidates.
- 3.14 As a result, we did not look at the processes used by the entities involved in Ms Thompson's secondments or acting appointments.

Security clearances

- 3.15 Many roles in the public sector, including some held by Ms Thompson, require a security clearance from the New Zealand Security Intelligence Service (NZSIS).¹ The applicant must provide personal information that is certified by the Security Officer within the employer organisation against their personnel records. The NZSIS checks that the information presented by the applicant accords with facts known to them and carries out other aspects of the clearance process.
- 3.16 We have been told that the NZSIS does not usually check academic qualifications. Qualifications are more relevant to employment and suitability for a position than to security considerations. The NZSIS also told us that public entities should know what is, and what is not, checked in a security clearance.

¹ The decision to grant or decline the security clearance is made by the chief executive of the relevant organisation, after receiving advice from the NZSIS.

Application for role of chief executive at the Department of the Prime Minister and Cabinet in 2004

Although the part of the recruitment process that we looked at appeared standard, we considered that the uncertainty about Ms Thompson's PhD should have been handled differently by the State Services Commissioner in 2004.

The recruitment process and PhD uncertainty

- 3.17 The role of chief executive of DPMC became available after Dr Prebble resigned to become the State Services Commissioner from 28 May 2004.² Before taking up his new role, Dr Prebble took a period of leave from DPMC. He appointed Ms Thompson, who was the Director of DPMC's Policy Advisory Group at the time, to act as chief executive while he was away.
- 3.18 The permanent appointment of chief executives to public sector departments is a role of the State Services Commissioner, assisted by the SSC. The chief executive role at DPMC was advertised by the SSC in March 2004. A panel was established to consider the candidates and to advise the State Services Commissioner on the appointment.
- 3.19 As is customary, the SSC used a consultant to assist in the recruitment process. The consultant's responsibilities involved assessing and analysing the applications received for the position, and identifying people who had not applied but who might be appropriate for the role. The consultant was well respected in this area and had been used regularly by the SSC.
- 3.20 Ms Thompson applied for the position in writing on 5 April 2004 and enclosed a CV. The CV included the claim that she held a PhD from the LSE.
- 3.21 The consultant interviewed the candidates that same week, including Ms Thompson. During this interview, the consultant asked Ms Thompson about her PhD. The consultant did so for several reasons, including:
- She understood that the contract between the consultant's firm and the SSC required the consultant to check all academic qualifications listed by the candidates.
 - The consultant also told us that her analysis of Ms Thompson's CV and other information raised a question about the qualification. It was difficult to identify when Ms Thompson would have been able to complete the PhD in 1989 because of other activities Ms Thompson claimed to have carried out at that time.

² Mr Wintringham was the State Services Commissioner until 27 May 2004. He was replaced on 28 May 2004 by Dr Prebble, who in turn was replaced by Iain Rennie, the current State Services Commissioner, on 1 July 2008.

- 3.22 There was a misunderstanding about the location for the interview and it began late, and we were told that the interview became tense. The consultant was not satisfied with Ms Thompson's replies to her questions about the PhD. The consultant asked Ms Thompson to produce proof of her PhD, as she was unable to get the LSE to confirm the qualification directly because of privacy concerns. Ms Thompson offered to obtain the documentation for her.
- 3.23 Soon after that interview, Ms Thompson advised Mr Wintringham that she was withdrawing her application for the vacancy. Ms Thompson told us she did so because she felt the consultant's attitude at the interview indicated that the consultant was going to make an adverse recommendation about her. Mr Wintringham said that she also mentioned that she was unhappy with the appointment process.
- 3.24 The consultant reported back to Mr Wintringham about the results of the interviews. Mr Wintringham recalls her mentioning Ms Thompson's apparent unwillingness to discuss matters relating to her course of study for her PhD. On being told of Ms Thompson's withdrawal, the consultant described to Mr Wintringham the discussion that she had had with Ms Thompson and mentioned that she had a question about Ms Thompson's claim to a PhD.
- 3.25 At some stage after this conversation, Mr Wintringham actively sought a meeting with Ms Thompson. At the meeting he asked her directly whether she had a PhD. Ms Thompson assured Mr Wintringham that she did, and Mr Wintringham accepted her word and told her so.
- 3.26 Mr Wintringham told us he raised his interaction with the consultant with the SSC's legal advisor. Mr Wintringham told the legal advisor that the consultant suspected that Ms Thompson did not have the PhD she claimed to have, but that Ms Thompson had strongly denied this. Mr Wintringham indicated to the legal advisor that he would not take the matter further. The legal advisor told us that she had acquiesced to that approach.
- 3.27 Mr Wintringham also had a brief discussion with the then Deputy State Services Commissioner. The Deputy State Services Commissioner was a member of the interview panel for the DPMC role and had been aware that the consultant had found it difficult to verify Ms Thompson's academic qualifications. The Deputy State Services Commissioner understood from his discussion with Mr Wintringham that Ms Thompson had satisfactorily explained the qualification issue to Mr Wintringham.

- 3.28 During the next three weeks, the consultant carried out further informal inquiries through an associated firm in the United Kingdom. These investigations led to an email dated 30 April 2004 from a person within the LSE. The email stated that there had been a research student by the name of Maria Anna Thompson, but that there was no record of a PhD being conferred. The email also said that it was possible that the LSE records were incomplete.
- 3.29 On the same day, the consultant emailed Mr Wintringham asking him to call her as she had “uncomfortable news”. When they spoke, she told him what she had learnt, and that the inquiries she had carried out had established that there was no record of a PhD being conferred on Ms Thompson. However, she could not be sure of this because some uncertainties remained. The consultant told us that she advised Mr Wintringham that he should ask Ms Thompson to provide proof of the PhD.
- 3.30 Mr Wintringham told the consultant that he did not want her to carry out any more inquiries, because Ms Thompson had withdrawn her application. He told us he said this because he considered by withdrawing her application, Ms Thompson had withdrawn her authorisation for Mr Wintringham or his agent to verify any matters relating to her application. He told us that undertaking further enquiries could have put the SSC’s reputation at risk and could have been a source of damage to Ms Thompson’s professional reputation.
- 3.31 Mr Wintringham told us that a lot of effort went into ensuring that recruitment processes carried out for chief executives in the public service followed due process, as the same people would often be applying for subsequent roles and because managing chief executive appointments is a core function of the SSC. It was important to him that Ms Thompson was satisfied with the process, and he told the consultant that she should have coffee with Ms Thompson to minimise any outstanding ill feeling on Ms Thompson’s part.
- 3.32 On 23 May 2004, Mr Wintringham continued Ms Thompson’s role as Acting Chief Executive of DPMC until the arrival of the new chief executive in June 2004.³ Ms Thompson’s last day as Acting Chief Executive was 13 June 2004.
- 3.33 Ms Thompson told us that she provided Mr Wintringham with a copy of the thesis that she had submitted for her PhD. She sent this to him a short time after he had asked her whether she had a PhD. On 27 May 2004, Mr Wintringham returned the document to Ms Thompson. In the accompanying letter, he congratulated Ms Thompson on her move to the Department of Labour, indicating that it was the right move at the right time. He stated that “no doubt I will look for an announcement, from the State Services Commissioner, of a further career step for

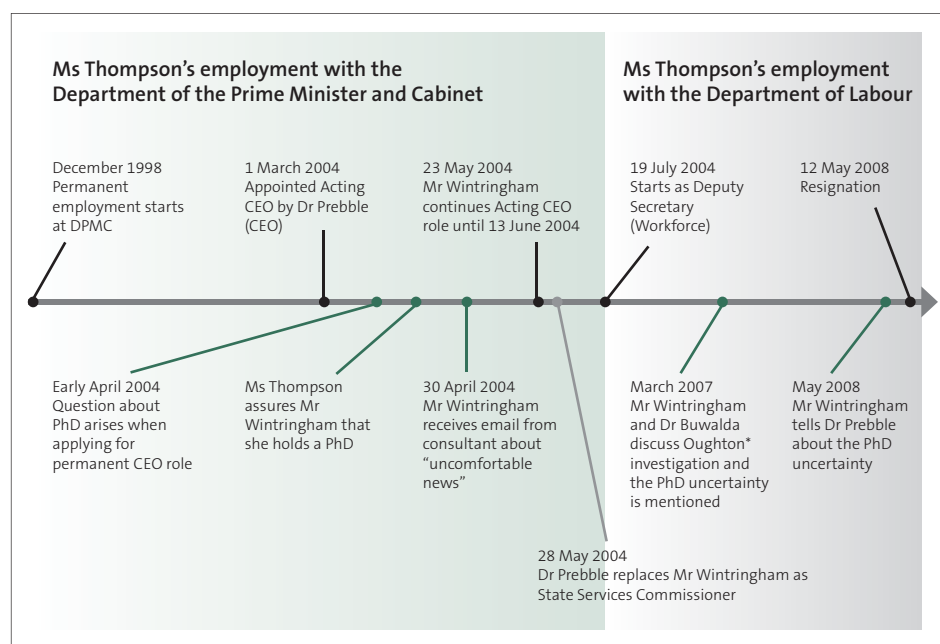
3 This was done by an appointment under section 40 of the State Sector Act 1988.

you in due course”. He told us that this was consistent with his policy of courtesy and encouragement to unsuccessful candidates.

- 3.34 When the concerns about activities at Immigration New Zealand and Ms Thompson were reported in May 2008, Mr Wintringham contacted the State Services Commissioner at the time, Dr Prebble, about the PhD uncertainty. This is discussed in paragraph 1.20.
- 3.35 Figure 2 illustrates the timeline of when the uncertainty about Ms Thompson’s PhD arose. It also includes her subsequent role at the Department of Labour, which is discussed in paragraphs 3.42-3.59.

Figure 2

Ms Thompson’s roles when uncertainty about her PhD arose



* See paragraphs 3.55-3.59.

Our views on the process

- 3.36 The recruitment process for the role of chief executive for DPMC was carried out in a shorter timeframe than usual, so that it could be completed by Mr Wintringham before he retired as State Services Commissioner. The procedure used for the part of the recruitment process that we considered appeared standard.⁴

4 Our review was limited to the process that took place until Ms Thompson withdrew from it.

- 3.37 An inherent part of considering the appropriateness and effectiveness of the recruitment process carried out on behalf of the State Services Commissioner involves considering what action was taken over the uncertainty about Ms Thompson's PhD, which arose during this process.
- 3.38 Mr Wintringham has said publicly and to us that, with the benefit of hindsight, he should have ensured that the information was passed on to his successor.
- 3.39 We also have the benefit of hindsight. We acknowledge that Mr Wintringham had received a direct assurance on the matter from a colleague who had been performing in trusted and senior roles for many years. He was aware that Ms Thompson's consent for the SSC to verify information about her was effective only while she was a candidate in the appointment process and was concerned to maintain trust in that process. He was also occupied with a range of other significant matters, and was preparing to leave office shortly.
- 3.40 In our view, it would have been preferable to consider the issue more broadly, in the light of the expectations on public service employers and in the context of the State Services Commissioner's overall responsibility for standards of integrity and conduct across the public sector, rather than as part of a single appointment process. A question had been raised about the accuracy of the CV of a very senior public servant and potential chief executive. If there was an inaccuracy, it had the potential to become an integrity issue about that person. Once the question was raised, it needed to be answered. In our view, Mr Wintringham should have taken the matter further, either personally or by passing the information on to his successor.
- 3.41 We note that the job of State Services Commissioner has been described to us as one of the most difficult in the public service. The State Services Commissioner is expected to receive and deal with a wide range of information about chief executives, senior public servants, and Ministers. Some of that information is highly sensitive, personal, and potentially controversial. It is the State Services Commissioner's job to judge how such matters are appropriately dealt with, which can be difficult to decide.

Appointment to the Department of Labour in 2004

The recruitment process appeared relatively standard, but there were some aspects of the process that did not comply with good practice. These departures from good practice did not have a significant effect on the outcome of the process.

The recruitment process

- 3.42 In 2004, the chief executive of the Department of Labour, Dr Buwalda, had restructured his senior management team. He was looking to appoint several deputy secretaries (senior second-tier managers that reported to him). Ms Thompson was one of those appointees.⁵
- 3.43 The Department of Labour used a consultant, a contestable process, an interview panel, and reference checks. However, some aspects of the process were not followed for Ms Thompson's application.
- 3.44 Ms Thompson applied after the advertised deadline for this role had closed, some time in May 2004, after she had withdrawn her application for the role of chief executive of DPMC. She applied after the applicants had been short-listed, and possibly after the panel had begun interviewing for the positions. Ms Thompson was aware that her application was being made after the deadline had closed, but understood that it would still be considered.
- 3.45 Because of this timing, Ms Thompson did not go through the consultant's standard process for short-listing candidates. In the standard process, the consultant reviewed the applications received, interviewed those that looked promising, and made an initial assessment to assist in short-listing the candidates for a panel interview. Instead, we were told that Ms Thompson was short-listed for an interview based on her senior public service experience and her technical knowledge relevant to the policy and operational challenges of the role. Ms Thompson went straight to an interview with the interview panel.
- 3.46 Dr Buwalda told us that, at the time, he saw little significant about Ms Thompson's application bypassing the standard process. Dr Buwalda had previously worked with Ms Thompson on various matters, and he told us that her level of experience in the public sector placed her well ahead of the threshold for short-listing candidates.
- 3.47 The process was not well documented by the Department of Labour, and there are differing accounts of the documents provided by Ms Thompson. The consultant and the interview panel recalled that there may have been an application letter

⁵ We have reviewed only the recruitment process used for the role of Deputy Secretary (Workforce), to which Ms Thompson was appointed, and not the other deputy secretary roles. We had no reason to question the appropriateness of those other processes.

from Ms Thompson, setting out her relevant competencies, experience, and employment history. Neither the Department of Labour nor the consultant were able to provide us with a copy of it. The interview panel and the consultant said that they did not see a formal CV from Ms Thompson, and no CV from Ms Thompson exists on the Department of Labour's or the consultant's files. However, Ms Thompson insists that she submitted a CV, and that she handed it to the consultant at the interview. We did not seek to resolve this,⁶ because our concern is with the lack of documentation retained by the Department of Labour for this recruitment process.

- 3.48 People involved in the process recall that Ms Thompson was an impressive candidate, and that Dr Buwalda was keen to appoint her if she was interested. They had the impression that appointing someone like Ms Thompson from a very senior position at DPMC to the Department of Labour would be a significant achievement. The decision to appoint Ms Thompson was made by Dr Buwalda. Her appointment was confirmed, a few days after her interview, in a letter dated 24 May 2004.
- 3.49 After the panel interviewed Ms Thompson, the consultant carried out reference checks. The results of the reference checks were reported back to Dr Buwalda four days after the appointment letter was provided to Ms Thompson. The offer was not conditional on the outcome of the reference checks. Dr Buwalda told us that his knowledge and experience of working with Ms Thompson meant that he was able to personally verify claims she made about competencies and relevant work experience. He said that the purpose of the reference checks was to gather information and insight into her working and learning style, and that none of the referees identified any integrity issues.
- 3.50 Ms Thompson told us that the CV she submitted for this application did not refer to a PhD. The people involved in Ms Thompson's recruitment to the Department of Labour in 2004 do not recall her claiming to hold a PhD.

Our views on the process

- 3.51 The process used to recruit Ms Thompson for the role of Deputy Secretary (Workforce) appears to have been reasonably standard, but there were some aspects of the process that did not comply with good practice. In our view, however, these departures from good practice did not have a significant effect on the outcome.
- 3.52 People we spoke to in the recruitment industry told us that late applications occur from time to time. An employer needs to carefully consider whether to accept a late application and to document the reasons for accepting it. However, it is

⁶ For example, by reviewing the computer records of DPMC, where Ms Thompson told us she prepared her CV for this application.

unusual, and not acceptable, not to retain a CV or similar supporting papers from or about a successful applicant.

- 3.53 The aspects of this recruitment process that did not comply with good practice included:
- the late application bypassing the consultant's usual process (including an initial interview and analysis of the applicants) without any documented explanation for this;
 - the offer of employment being made before the reference checks had been completed, and not conditional on the outcome of the reference checks; and
 - the lack of documentation, including no copy of Ms Thompson's application, and no copies of the panel's assessment of the applicants.
- 3.54 We understand that Dr Buwalda was enthusiastic about the prospect of recruiting a high-profile candidate with Ms Thompson's level of experience. Dr Buwalda suggested to us that, given his previous knowledge of and dealings with Ms Thompson and his reliance on her roles at DPMC, the reference checks would not have added much to his knowledge of her and so were not essential before a job offer was made. In our view, the purpose of reference checks is to gain a full knowledge of the person, because it is possible that other work colleagues may have gained a different impression of the applicant. We would expect this to take place before a job offer was made, or as a condition of the job offer.

Awareness of the PhD uncertainty

- 3.55 Dr Buwalda became aware in 2007 that a question had previously arisen about Ms Thompson's claim to have a PhD.
- 3.56 In March 2007, Mr Wintringham and Dr Buwalda discussed Ms Thompson in the context of an external investigation by David Oughton that Dr Buwalda was establishing.⁷ At the time, both Dr Buwalda and Mr Wintringham were members of the Department of Labour's audit committee.⁸ Dr Buwalda told us that the discussion focused on ensuring that the investigation followed a fair and appropriate process, and that they discussed how Ms Thompson might react to the matter being investigated. In that context, Mr Wintringham told him that an uncertainty had arisen about Ms Thompson's PhD while he was the State Services Commissioner and that he had questioned her about it. Mr Wintringham can recall discussing Ms Thompson's possible reaction to Mr Oughton's investigation

⁷ This investigation resulted in a report, *Review of Apparently Unlawful Immigration Decision*, by Mr Oughton to the Department of Labour dated 27 July 2007. It concerned the legality of residence permits granted to relatives of Ms Thompson. It was not provided to the audit committee and Mr Wintringham was unaware of its contents. This report is discussed in further detail in the State Services Commission report mentioned in paragraph 1.6, and in Volume 1 of our inquiry report.

⁸ Mr Wintringham was an independent member of the audit committee from September 2005 until 2008.

with Dr Buwalda. However, he does not think that he would have raised the PhD issue with him.

- 3.57 Dr Buwalda told us that he concluded from the conversation with Mr Wintringham that there had been an earlier incident relating to her claim to hold a PhD, but that there was no outstanding issue requiring further action. He did not find out whether Mr Wintringham thought Ms Thompson had the PhD, or whether or how he had resolved the uncertainty.
- 3.58 Mr Oughton's report was finalised in July 2007, after Dr Buwalda had resigned as chief executive of the Department of Labour. Accordingly, he did not have an opportunity to consider this matter in the context of the outcome of Mr Oughton's report. Dr Buwalda did not mention it to the incoming Acting Chief Executive nor to anyone else in the Department of Labour. Although Dr Buwalda had been keeping the SSC informed about progress with Mr Oughton's investigation, he did not mention the earlier incident relating to Ms Thompson's claim to hold a PhD.
- 3.59 Dr Buwalda told us he did not believe there was an outstanding uncertainty about Ms Thompson's qualifications to be passed on. With the benefit of hindsight, it would have been helpful for Dr Buwalda to pass on the information he had received about Ms Thompson's claim to hold a PhD so that his successor could consider the matter.

Knowledge held by Ministers

Ministers were not aware of the PhD uncertainty until just before it became public in May 2008. That is consistent with the norms governing when it is appropriate for Ministers to be informed about employment matters in the public service.

- 3.60 Ministers told us that they were not aware of the PhD uncertainty until just before it became public in May 2008.
- 3.61 The State Sector Act 1988 requires chief executives to handle employment matters independently of Ministers, to protect the neutrality of the public service. Ministers would not normally be informed about an employment issue unless there was a decision or action taken by the chief executive that was likely to attract public comment or that might be relevant to Ministers.
- 3.62 It might be relevant to inform the Minister in a "for your information" briefing, if the matter was likely to affect day-to-day operations between the department and the Minister. For example, if the matter involved a senior official who had frequent interaction with the Minister and who might be asked to step down from this role while the issue was being investigated.

Appendix

Terms of reference for the inquiry

Inquiry into matters arising out of Immigration New Zealand

4 June 2008

The Controller and Auditor-General has decided to carry out an audit and inquiry (the inquiry) into a range of integrity concerns arising out of Immigration New Zealand (which is part of the Department of Labour). These terms of reference set out the nature and scope of the inquiry.

The inquiry is being carried out at the request of the Prime Minister and the Minister of Immigration. That request was in response to various concerns and allegations that have been discussed in the public domain recently. Some issues relate to the operations of Immigration New Zealand's Pacific Division, and incidents involving certain senior personnel. Some issues relate particularly to the conduct of Mary Anne Thompson, the former Deputy Secretary (Workforce). Some issues relate to how the concerns have been previously handled by others, including chief executives of the Department of Labour, the State Services Commissioner, and Ministers.

The inquiry will examine the following matters:

- the integrity and probity of immigration decision-making systems, processes, and practices within Immigration New Zealand, especially within its Pacific Division, including whether such practices generally comply with relevant law, policies, procedures, and public sector ethical standards;
- particular situations that raise concerns about the integrity of senior immigration staff;
- public service recruitment processes about Mary Anne Thompson;
- the awareness and management of concerns about integrity issues at Immigration New Zealand (including about Mary Anne Thompson) by:
 - the Department of Labour, and
 - the State Services Commission, and
 - Ministers; and
- any other issues that the Auditor-General considers relate to, or arise out of, the above matters.

Although many of the issues to be examined in this inquiry arise out of Immigration New Zealand, this inquiry is not limited to Immigration New Zealand, nor the wider Department of Labour. Where relevant, it will also include looking at the actions of others in the public sector.

The inquiry is intended to address the particular issues that have already been discussed in the public domain, but its focus will not necessarily be limited to those issues.

The inquiry will **not** seek to:

- overturn immigration decisions affecting particular individuals;
- consider the appropriateness of current immigration policy;
- review the organisational structure or direction of Immigration New Zealand or its Pacific Division; or
- determine criminal liability.

The Auditor-General notes that related work, by several other agencies, is also under way. This includes:

- an investigation by the Police into Mary Anne Thompson's qualifications;
- a report by the State Services Commission on the Department of Labour's response to concerns about immigration matters involving relatives of Mary Anne Thompson;
- an independent review commissioned by the Department of Labour into Immigration New Zealand's Pacific Division; and
- ongoing investigations by the Ombudsmen into complaints about decisions affecting individuals.

The Auditor-General will liaise, as necessary, with the persons managing that other work.

The inquiry will be conducted under sections 16(1) and 18(1) of the Public Audit Act 2001, under the Auditor-General's mandate as an independent officer of Parliament and the statutory auditor of all public entities.

The Auditor-General will report the findings of the inquiry to the House of Representatives. The Auditor-General may decide to report in stages.