

**Bargains, compacts and conventions in the core  
executive: the New Zealand case**

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## **Abstract**

Talk of a ‘second wave’ of scholarly work on political advisers has recently emerged, presaging a research agenda characterized by empirical studies from the span of administrative traditions, a deeper theoretical engagement with both the core issues in the field (politicization, advisers’ policy work and roles, etc.) and with proximate literatures, and by deeper and wider comparative research.

In that context, in this paper we have set ourselves two objectives. First, drawing on Hood and Lodge’s seminal work on Public Service Bargains (PSB) we seek a richer theoretical elaboration of the relationships that inhere between ministers, political advisers and civil servants. Second, we use empirical materials from the New Zealand context to test the utility of this model, and on that basis offer some preliminary comments regarding the capacity of the PSB heuristic to fully illuminate interactions between the three parties to the contemporary core executive.

## Introduction

There was a time when they stood in the shadows of executive government (Blick 2004) but political advisers – or ministerial advisers as they’re known in New Zealand – have long since emerged (or been dragged) into the light. The scholarship on political advisers has also emerged from the shadows. An initial focus on the Westminster community of nations now encompasses continental European jurisdictions; the early (and necessary) concern with empirical description is increasingly complemented by theoretically sophisticated accounts of political advisers *in situ*; and bridges linking the scholarship on political advisers with proximate literatures have been built, across which traffic now travels in both directions.

The imperative for more to be done on these and other counts, however, is reflected in the call for a ‘second wave’ of research on political advisers (Shaw and Eichbaum 2015), one characterized by an expanded pool of empirical examples, more systematic comparative research, and greater attention to the theorization of empirical particulars drawing on the political science and public administration canons.

This paper speaks to the third of these, insofar as its core purpose is to better explain – through the application of Hood and Lodge’s Public Service Bargain (PSB) framework – the rules-of-the-game that structure relationships between ministers and political advisers. It should be read as a companion piece to an earlier publication (Shaw and Eichbaum 2016), in that it puts empirical meat on the theoretical bones contained in that prior text. This paper opens with a potted history of the ministerial adviser in New Zealand, and briefly traverses some of the key issues that have arisen out of interactions between these advisers and their professional counterparts. The PSB literature is then used to frame the relationship between ministers and political advisers, and an attempt is made to establish the empirical particulars of the bargains that pertain between the two sets of actors. The paper concludes with several observations regarding the contribution our analysis might make to the wider PSB scholarship, and the extent to which theorizing on the basis of the New Zealand case might have comparative application.

## The ‘third element’ in New Zealand

In New Zealand ministerial advisers date from the mid-1980s (Eichbaum and Shaw 2010a). In some jurisdictions the introduction of ministerial advisers has reflected a conscious political decision. In New Zealand, however, the process has been rather more *ad hoc*. In 2017 every minister’s office features at least one ministerial adviser, but during the late 1980s and early-to-mid 1990s, ministers chose whether or not to have a ministerial adviser on their staff: a number did, but some did not.

There are at least three explanations for the increase in the number of ministerial advisers over the last two decades or so. First, the New Zealand model of state sector reform positioned ministers as (political) principals responsible for purchasing outputs from (administrative) agents. An institutional prescription anchored in the assumptions of public choice and agency theory suggested the need for formal support for ministers – independent of that provided by the standing bureaucracy – to enable efficient and effective purchasing decisions to be made (Boston et al. 1996). In this respect the reforms generated a political demand for the sorts of advice political advisers are well placed to offer.

In addition, the imperatives of proportional representation – and in particular the processes of multi-party and/or minority government formation and management which have become the norm under MMP (New Zealand has not experienced majority government, whether single or multi party, since late 1994) – require the provision of advice and support that, under Westminster conventions, non-partisan public servants cannot provide. In research we undertook a decade ago the advent of MMP was cited more frequently than any other factor in a question regarding reasons for the growth in the number of ministerial advisers (references were also made to greater policy complexity, mounting ministerial workloads, and ministerial distrust of officials’ motives) (Eichbaum and Shaw 2007a, p. 627).

Specifically, respondents to that research saw ministerial advisers as an institutional response to the clutch of new political relationships – within administrations, and between governments and parliamentary support parties – attendant upon the advent of multi-party and minority governments. Much of what this entails in practice – forming governments, brokering agreements on the policy agenda, planning tactics in the House

with support parties, negotiating trade-offs around legislation – is strictly off limits to public servants but grist to the ministerial adviser’s mill.

Beyond the imperatives of state sector and electoral reform there are additional drivers behind New Zealand ministers’ recourse to ministerial advisers. Intractable policy problems, insatiable and often hostile media, exponential increases in the amount of information ministers must master, and a more demanding and discerning public are all characteristics of a contemporary policy environment which places ministers under increasing pressure. In response, ministers have turned to political advisers for (amongst other things) support and advice.

Elsewhere (Eichbaum and Shaw 2010a, p. 118) we have noted that the growing number of political advisers may also reflect a certain loss of faith in officials amongst ministers. The positive view is that ministers are increasingly inclined to probe officials’ advice; from this stance the ministerial adviser is a legitimate source of contestable advice. A more pointed position is that governments are increasingly sceptical of officials’ motives (although, as noted below, the evidence for this is mixed).

Administrations taking office after an extended period in opposition, in particular, are believed to harbor some ‘distrust of permanent officials and their ability to be politically neutral – or more correctly, [to] provide advice reflecting different political objectives’ (Eichbaum and Shaw 2010a, p. 119). Alternatively, it may be that the institutionalization of the role of the ministerial adviser simply reflects that public servants are doing what they’re expected to. As a participant in earlier research of ours put it, ‘[t]he public service has always been mindful of the need for neutrality. Ministers want their advisers to be partisan. In many ways it’s a [positive] reflection of the integrity of the public sector’ (Eichbaum and Shaw 2010a, p. 119). The existence of the ministerial adviser is, from this stance, a testament to the professionalism of officials.

## **Relationships in the core executive**

At this point we pivot towards a more explicitly theoretical consideration of the tripartite relationship now characteristic of the core executive in New Zealand (and elsewhere). We begin by examining officials’ evaluations of and concerns associated with ministerial advisers’ policy roles, and then consider the wider – and in some senses prior – matter of theorizing the relational contexts that give rise to these concerns.

Much of the work described in the previous section is valued by officials. We have found a broad consensus amongst senior public servants that ministerial advisers add value to ‘the “backroom” stuff’ (Eichbaum and Shaw 2010a, p. 125) with coalition partners and support parties that is both a defining feature of policy formation in New Zealand and well beyond the pale for public servants. Some also see value in the ability of a skilled adviser to co-ordinate actors and issues within a core executive the boundaries of which are fluid, and who is able to clarify her minister’s thinking for officials. A former head of the British Civil Service has noted that ministerial advisers are able to ‘help the department understand the mind of the Minister, work alongside officials on the Minister’s behalf and handle party political aspects of government business’ (Wilson 2002, p. 387). For many senior officials in New Zealand the most valuable contribution a ministerial adviser can make is to assist officials understand and negotiate the political context within which ministers’ preferences sit. As one has put it, a good ministerial adviser can serve as ‘a useful conduit/liaison with the minister. They can also provide useful information to departments on the political imperatives impacting on or driving the minister. They can communicate the areas of policy which are non-negotiable’ (Eichbaum and Shaw 2010a, p. 127).

It also works in the other direction: public servants appreciate the ministerial adviser who can communicate officials’ assessments back to the minister, and who can:

facilitate the flow of information to and from busy ministers, exercising judgment and synthesizing information so that ministers can be informed efficiently and in an up-to-date way. [They] [c]an integrate information from different sources which aids ministers, but can also help to inform the policy process by incorporating different perspectives (Eichbaum and Shaw 2010a, p. 128).

But there is also – and in this respect New Zealand officials echo sentiments expressed by civil servants elsewhere – scepticism regarding ministerial advisers’ motives and conduct. It tends to stem from interventions in policy work that are felt to be (and perhaps once were) the preserve of the permanent bureaucracy. There is particular concern that advisers ‘can “capture” a minister and get in the way of frank advice, or create unnecessary work if they do not know a policy or operational area well’ (Eichbaum and Shaw 2010a, p. 126). There is also irritation with advisers who dabble in operational matters or who aggressively promote a minister’s policies which – in the

assessment of officials, at least – are at variance with the collective interests of the administration (Eichbaum and Shaw 2010a).

Perhaps most concern attaches to the contribution to policy design and decision making which ministerial advisers (and their political principals) characterize as contestability but which many officials consider to be something quite different. ‘Contestability’ is itself a contested term. One position – for which there is support in some corners of officialdom – is that ministerial advisers help inject policy views, options and alternatives which may have escaped the gaze of officials. Casting fresh eyes over a department’s proposals and asking probing questions are things that advisers can do to good and productive effect.

Equally, there is the sense that as governments turn to political appointees for advice, officials’ contributions to the design and options testing phases of the policy process are being marginalised. Thus, while adding a political perspective might mean furnishing a viewpoint that officials have overlooked, it might also mean – *a la* Walter’s (2006) concept of funnelling – constraining the provision of free, frank, and fearless advice by ruling out options with the wrong political fit.

In short, for some the greatest risk posed by ministerial advisers is to the impartiality of the permanent public service. And while contestability and politicization are perhaps sometimes confused – insofar as one person’s contestability may be another’s politicization, and vice versa – there is evidence that ministerial advisers have intervened in the work of officials in ways which offend against the principles and conventions associated with a professional public service (Eichbaum and Shaw 2008). That may be by constraining officials’ abilities to furnish free, frank, and fearless advice to the minister (e.g. when an adviser places herself either between a minister and senior officials), or it may be more directly, as when an adviser directs officials to insert partisan considerations into departmental advice.

The various issues mentioned above are the subject of extensive empirical research in New Zealand and elsewhere, but what has not received much attention is the matter of the over-arching tripartite relationship within which those issues are manifest and play out. In the rush to clarify empirical particulars the importance of conceptualizing the fundamental relationships has perhaps been over-looked. Concerns about access to ministers, contestability and politicization are specific expressions of a broader relational muddle: no-one is quite clear on the rules-of-the-game that structure interactions between ministers, public servants, and ministerial advisers. It is of especial concern that in the

welter of scholarly activity the impact of political advisers on intra-executive relations seems to have escaped comprehensive theorization. In the remainder of this paper, therefore, we set out one means of conceptualizing the combinatorial possibilities within the triangular relationship called into existence by the institutionalization of the political adviser.<sup>1</sup>

## **Bargains, compacts and covenants in the core**

If the contemporary executive is represented as an equilateral triangle, then the relationship represented by side A–B (ministers/public servants) has been thoroughly explored in the scholarship on political-administrative relations. However, while the role of the political adviser is anticipated in certain corners of that scholarship (Eichbaum and Shaw 2010b, pp. 201–06) it has yet to be fully woven into the narrative. In other words, the relationships captured by sides A–C (ministers/ministerial advisers) and B–C (public servants/ministerial advisers) of the executive triangle have yet to receive their theoretical due.

### **Public Service Bargains**

Hood and Lodge's (2006) seminal work on PSBs offers one compelling approach to this challenge. A PSB orientation furnishes a particular sense of the terms and conditions of the compacts struck by ministers and the partisan *arrivistes*. PSBs are compacts regarding core executive actors' roles, rights, and responsibilities in relation to one another. More specifically, they are the 'explicit or implicit agreements between public servants – the civil or uniformed service of the state – and those they serve' (Hood and Lodge 2006, p. 6). The term 'bargain' is often used in the singular form but should be understood as incorporating a series of understandings – scattered across different parts of the executive landscape – rather than as a single, coherent, and codified package. In essence the constituent elements structure transactional relationships: appointed officials exchange loyalty to and competence in the service of ministers for certain guarantees regarding employment, reward and responsibility.

The basic distinction is between trustee and agency bargains. Under the former public servants defend the public good and receive a measure of institutional and operational

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<sup>1</sup> Reflecting our engagement at this point with theoretical matters extending well beyond our country focus, from here on we use the terms political adviser and ministerial adviser interchangeably.

autonomy in return for providing technical competence to the government of the day. A propos the latter officials serve as agents of their political principals: whether loyalty is serial (to successive ministers) or personal (to an individual minister) officials do the ‘bidding of the politicians for whom they work’ (Hood and Lodge 2006, p. 53).

Bargains have three dimensions: reward (what is offered), competence (the nature of the services rendered) and loyalty and responsibility (including considerations of cheating and punishment) (Hood and Lodge 2006). Further, on the basis that they are found in ‘convention or formal law or a mixture of both’ (Hood 2001, p. 12) bargains have both tacit and explicit dimensions (Elston 2016). For instance, the former might be detected in informal understandings regarding working relations between ministerial advisers and officials on secondment to a minister’s office; the latter are likely to be codified in statute, executive orders, or formal advice from a Cabinet Office or equivalent to ministers.<sup>2</sup>

Hood and Lodge’s PSB typology has been variously and widely deployed (see Shaw and Eichbaum 2016). Overwhelmingly – and with good reason, given the consequences of several decades’ worth of institutional upheaval for political-administrative relations – the concern has been with the evolving nature of the bargains struck between ministers and senior bureaucrats. The critical insight from scholars is that, internationally, civil service reforms have transformed the traditional Schafferian, trustee-type PSB into something resembling a managerial, agency-type compact. And in ‘a bargain world of multiplication and diversification’ (Lodge 2010, p. 105) the arrival of the political adviser has been a significant factor in this change in the ecological balance of the core executive bargaining environment. The full consequences of this variegation, however – both for bargains that pre-existed the political adviser’s arrival and for the new configurations of relationships occasioned by that appearance – remain unclear.

There are at least two reasons for this. First, what research has been done either (a) treats political and public service advisers as a unitary category, (b) deploys conceptual tools suited to the circumstances of the latter and therefore insufficiently sensitive to those of the former, and/or (c) focuses on the impact that political advisers have on PSBs between ministers and public servants (Bezes and Lodge 2015; Bourgault and Van Dorpe 2013; de Visscher and Salomonsen 2012; Hansen *et al.* 2013; Hondeghem and Steen

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<sup>2</sup> In the New Zealand context this would include the contents of the Cabinet Manual. While the Manual itself does not enjoy the status of formal law, its conventional authority is such that the relevant contents comprise part of the explicit PAB.

2013). In effect, the category ‘political adviser’ is usually positioned as the independent rather than the dependent variable.

Second, and this is our primary concern here, the contribution from de Visscher and Salomonsen (2012) aside, little systematic work has been done within the PSB *oeuvre* on articulating the formal, conventional, and normative bases of the covenants negotiated by and between ministers, officials, and political advisers. The contemporary core executive exemplifies Hood’s reference (see above) to a ‘bargain world of multiplication and diversification’: the classical PSB aside, however, that world remains substantially uncharted. In particular, the nature of the bargains between ministers and their *political* advisers has yet to be satisfactorily articulated. The call to do so has certainly been issued: indeed, it is implicit in the acknowledgement that ‘attempts were made to spell out the terms of the bargain applying to political advisers’ (Hood and Lodge 2006, p. 128). However, evidence of those attempts remains scant, such that the terms of what Lodge (2010) calls the Political Adviser Bargain (PAB) have yet to be specified, much less tested.

## **The search for the Political Adviser Bargain in New Zealand**

Elsewhere we have explored the extent to which Hood and Lodge’s 2006 template theoretically accommodates the bargains struck between ministers and their political advisers, and sketched the nascent dimensions of a PAB (Shaw and Eichbaum 2016). We extend that work here by putting some empirical flesh on the PAB bones using material from the New Zealand context.<sup>3</sup>

First, a word on New Zealand’s approach to the regulation of ministerial advisers. In most comparable jurisdictions there are explicit regulatory frameworks which to some degree structure the conduct and activities of political staff. Putting aside for the moment the question of efficacy, these frameworks can be thought of as comprising the explicit dimensions of a PAB, in that they will typically sketch the reward (e.g. salary), competency (the tasks and activities required), and loyalty (reporting arrangements) dimensions of the relationship between ministers and advisers.

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<sup>3</sup> The latter takes something of a back seat to the former, in part because the data collection we have thus far engaged in has not been explicitly structured by the PSB scholarship. While we have some utile data, a fully comprehensive empirical testing of the PAB framework needs data generated specifically for that purpose.

With the exception of an individual employment contract, however, New Zealand lacks nearly all of the elements of the regulatory frameworks in place elsewhere. There is no code of conduct for advisers, no legislation constituting the role, no formal cap on numbers, and no publicly available information about advisers' salaries, backgrounds, interests and so forth. To a large extent, therefore, the PAB in New Zealand is tacit, and exists in conventions, established practices and actors' expectations.

### **Reward: why bother?**

The reward dimension of a PAB refers to what is offered to a ministerial adviser in return for services rendered. Elston's (2016) explicit/tacit distinction useful in teasing out the extrinsic and intrinsic elements of the reward equation. Regarding the former the most obvious is remuneration, including base salary, any performance-related component of remuneration, and pension entitlements (Hondeghe 2011). A second potential extrinsic reward is alluded to in Turnbull's comment regarding the extent to which the special adviser system in the UK 'has become ... an intern programme for aspiring politicians' (2014, p. 77). But we omit security of tenure from the reward mix. In an earlier study (Eichbaum and Shaw 2007b, p. 97) we found that 64.5% of ministerial advisers had been employed for fewer than four years; the personal loyalty to a particular minister that is often the signal feature of the political adviser's lot is such that this was not a surprising finding and it confirms what others, including Yong and Hazell – who describe the cadre of special advisers as 'a mini-profession, precarious, with high turnover, little training and no promotion chances' (2014, p. 207) – have found elsewhere.

The intrinsic elements of the reward structure include the opportunities to play a role in the design and implementation of a political project, contribute to enhanced public policy outcomes (which is not necessarily the same thing), exercise delegated power, and work close to the centre of political power. Advisers have also identified the excitement associated with high pressure, high stakes work as a major non-pecuniary appeal of the role (Eichbaum and Shaw 2007b).

Turning to the evidence from New Zealand, on the matter of explicit rewards we immediately encounter a problem: whereas in many countries information regarding remuneration, advisers' backgrounds, private interests, and so on is publicly available (Gay and Fawcett 2005; Maley 2011; OECD 2011; Yong and Hazell 2014), none of this is on the public record in New Zealand. Thus, while Goplerud (2015) and Yong and Hazell (2014) have gone straight to that record to establish how many elected

representatives have previously worked as special advisers, this information is not formally kept in New Zealand. Such data as are recoverable through freedom of information legislation indicate, however, that ministerial advisers in New Zealand are not paid overly handsomely. Of the 662 staff employed on events-based contracts between 2003–15 only 14% were appointed on salaries in excess of \$100,000 while 31% earned between \$20,000 and \$60,000: this in a country in which the median per annum income in 2016 was \$45,000.

As to the tacit rewards of the job, it is clear that these – rather than salary or career advancement – are the primary attractions for most ministerial advisers. In our research with former advisers none mentioned the pay packet as the major driver for taking up the role and only one spoke of improving her career prospects, and this was with the generic intention of ‘developing new skills’ (MA26) rather than embarking on a political career.

Conversely, all research respondents pointed to the intrinsic elements of the role as important attractions. For some the appeal was ‘the ability to play a role in making policy platforms a reality’ (MA02), the ‘opportunity to experience executive government, policy formation and high level portfolio overview’ (MA09) or ‘being at the centre of policy and political developments; making a contribution to better public policy outcomes; (MA31). One participant captured this element of the reward bargain perfectly. When asked what attracted her to the job she responded that it was the ‘day-to-day excitement, challenge and ‘buzz’ of the environment. [The] [c]hance to help shape positive change for the country and to ‘facilitate’ the process of government, e.g. prevent coalition ructions, or public spats. And yes, I admit it, I’m an ‘influence junky’!’ (MA08).

### **Competence: What’s needed?**

Hood and Lodge (2006, p. 86) define competency as the ‘ability, skills or experience’ advisers offer in return for the various tacit and explicit rewards on offer. There are several ways in which we might operationalize this construct. One approach (see Shaw and Eichbaum 2016) is to look at the issue from the demand side and consider the circumstances that might prompt a minister to appoint a political adviser. These might include the need for a jester capable of and permitted to ask awkward questions, a policy wonk with expertise in a particular area or issue of priority to the minister, an adviser able to contest the departmental point of view, or a secular confessor (or confidante) with the requisite skills in navigating the politics of the court.

Alternatively, on the supply side we could seek to determine the attributes that

political advisers offer to ministers; or, in different terms, to specify the various resources advisers bring to the transactions ministers must engage in to achieve their individual and collective goals. The juncture at which the demand and supply imperatives intersect – we leave aside the question of the price, or reward, at which that equilibrium point might be reached – will be characterized by the provision of requisite quantities of policy (institutional knowledge; technical knowledge; applied skills) and political capability (deep relationships, networks and connections; familiarity with operating environment and the ability to navigate court politics; willingness to pose awkward questions; etc.).

In a formal sense, evidence for the competence dimension of the New Zealand PAB is found in the employment contracts ministerial advisers sign (which include standard provisions and ministers' specific portfolio-related requirements). Competencies tend to be either procedural or substantive and – echoing Maria Maley's (2015) four arenas of advisers' agency – play out in four key domains: the minister's office, the wider executive environment, the departments and agencies for which a minister is responsible, and external stakeholders.

A propos procedural competencies, contracts typically emphasize the importance of coordination and liaison skills. Advisers will be expected to co-ordinate with the minister's Senior Private Secretary on the minister's programme, with governing partners and parliamentary support parties on matters of policy development and political risk management, and with departmental officials on policy advice. Beyond the executive arena an adviser is likely to play a role in effective liaison and relationship development with key stakeholders in the minister's portfolio areas.

As to matters of substance, contracts may also explicitly specify ways in which advisers are expected to contribute to policy making: a standard requirement is the ability to analyze, assess, and provide advice on policy papers from the minister's departments. Contracts may also stipulate a role crafting speech notes and articles and providing information for press statements, and for assisting the minister for answering written and oral Parliamentary Questions.

Further evidence of the competency dimension of PABs is found in former ministers' accounts of the reasons they appointed ministerial advisers. Those reasons can be clustered into three broad categories. Comfortably the most significant of these has to do with managing the workload. As one participant in our research noted:

politics is now far more complex. We have entered a period of permanent minority

government requiring constant negotiation and interaction between parties. In addition, crown agencies are no longer directly responsible to, or under the control of ministers. This complexity, combined with the fragmentation of government agencies, has made it more and more difficult for ministers to divvy up their time between the various demands of their positions. In this environment, advisers act as the minister's 'eyes and ears', their sounding board, their liaison person, their risk reducer and chief negotiators. Few ministers can function in this environment without one.

Managing political relations with governing partners or parliamentary support parties is a second significant driver behind ministerial recourse to ministerial advisers. In New Zealand, where non-single party majority government is the norm, a good ministerial adviser will serve as a 'political sherpa' (Shaw and Eichbaum 2014, p. 594), guiding her minister through the challenges of governing under proportional representation.

The third factor is the state of political-administrative relations. The orthodox assumption is that ministerial scepticism of the motives of officials is the primary reason for the appointment of political staff. The evidence from New Zealand, however, is that concerns about bureaucratic obfuscation are less important than is a wish for greater contestability in the market for policy ideas. (Shaw and Eichbaum 2014, p. 593). Thus, advisers are expected to provide an alternative view on departmental advice, either source and/or furnish that alternative view should the minister request it, and ensure that the expertise or views held in relevant networks beyond the political and administrative executives is sought where appropriate.

Stepping back from this detail we find it useful to conceive of ministerial advisers as a ministerial resource, deployed both within and beyond the arena of executive politics for the purposes of securing ministers' policy and political objectives. The work they undertake – fostering agreement amongst governing partners on policy, creating or finding windows of opportunity for their ministers' initiatives, and stitching together coalitions of support for (or opposition to) particular initiatives (Eichbaum and Shaw 2011) – is every bit as important to a minister's success as are the other resources (authority, money, influence, time, and so forth) upon which ministers must also draw.

### **Loyalty: To whom?**

On the matter of loyalty the primary question is: To whom is fealty given? At first glance the answer is self-evident: an adviser owes loyalty to the person of the minister.

However, on closer inspection the identity of the political principal in the PAB bargain becomes a rather more open question, the possible responses to which include the minister, the prime minister, or the political party sitting behind the administration. A propos the second of these, decisions on whether or not to appoint an adviser (and if so, who) are not always in a minister's control, and there are sometimes circumstances in which an adviser's principal duty of service is to a prime minister or his chief of staff rather than to a minister. As to political parties, given that a commitment to the political project with which a minister is associated explains why some seek a position as an adviser, some advisers' conception of loyalty is closer to that of a 'party loyalist' (Lodge 2010, p. 107) than a personal loyalist to a minister or prime minister.

In New Zealand the response to this question is, formally at least, found in the employment contract advisers sign with the CE of the Department of Internal Affairs. The contract emphasizes a primary duty to the appointing minister: the current iteration of the document acknowledges 'the close personal working relationship between a Minister and an employee [the ministerial adviser]', and there is no formal mention of a duty to the wider administration. Similarly, each of the three references to political advisers in the present Cabinet Manual stresses the primary relationship between an adviser and her minister.

But of course matters are more complex than the formal record suggests. As we have explained elsewhere, ministerial advisers' employment contracts typically establish a formal accountability relationship with the prime minister's chief of staff as well as to their appointing minister (Shaw and Eichbaum 2014). Not only does this provide the Prime Minister's office with oversight of all appointments, it also establishes an institutional means of coordinating the work of advisers across the network of ministerial offices. In part this speaks to whole of government imperatives, but it is also a way in which the prime minister and her chief of staff seek to anticipate, manage, and respond to political risks.

Ministerial advisers, too, are acutely aware of this dynamic. As one has put it, advisers feel a tension:

between being responsible for government policy and the wishes of their minister. These two are not the same. As an adviser I was specifically instructed to ensure ministers adhered to government policy. However, the employment realities of the role mean that most advisers will support their minister, rather than the 9<sup>th</sup> floor [the Prime Minister's office], in any

difference between the two. In part, this situation arises because, throughout my employment, I never felt it was clear exactly who the employer was: Ministerial Services, the chief of staff (responsible to the prime minister), or the minister. These multiple, and at times conflicting responsibilities, make the role even more challenging.

The duality of these circumstances raises a final question on the fundamental nature of the loyalty bargain that applies between a ministerial adviser and the minister. To return to Hood and Lodge's framework, is an adviser best described as a personal or serial loyalist? In other words, is loyalty primarily to the person of the minister or the project of the government (embodied in the prime minister)? The evidence, as it so often does, points in two directions, but on balance in the New Zealand case it supports the traditional view of the political appointee as the archetypal personal loyalist. Two thirds of respondents to our survey of ministerial advisers had only worked for one minister (although two had worked for seven different ministers between them) (Eichbaum and Shaw 2007b). The qualitative data described above, however, give pause for reflection: the institutionalization of accountability to the prime minister's chief of staff, and the evidence of the conventions and practices stemming from this, would suggest a more nuanced reality in which ministerial advisers must strike a balance of responsibility to both their minister and the wider administration.

### **A two-way street: evidence informing theory**

Suitably adapted, the PSB logic throws a particular light on the nature of the minister–ministerial adviser relationship. At this point, however, we offer several observations regarding the explanatory power of Hood and Lodge's model in the context of the PAB. Consistent with the principles of second-wave research on political advisers (Shaw and Eichbaum 2015), in doing so we hope to contribute to wider theory-building on the basis of our primary focus on political advisers.

### **Matters arising: making sense of PABs and PAPS**

Two insights provide the relevant context for our remarks: Lodge's (2009; 2010) identification of a multiplicity of PSBs in contemporary politico-administrative contexts, and Hood's acknowledgment that a PSB may accommodate two or more parties (2001, pp. 20-21). The contemporary triangular executive rests on three core bargains:

minister/public servant, minister/ministerial adviser, and public servant/ ministerial adviser. The PSB typology accommodates the first of these but does explain the other two quite as well.

As described in this paper the PAB – the bargain struck between ministers and ministerial advisers – is clearly an agency bargain. Things get a little murkier, however, when one drops further down the menu of sub-bargain types (see Hood and Lodge 2006, p. 21). Thus, whether or not the PAB is a directed or a delegated agency bargain is unclear. It most closely resembles the former, in that regulatory régimes invariably specify that advisers have little or no formal agency and are expected to act on the instructions of their political principals (who also accept responsibility for the actions of their agents). In practice, however, as Maley (2000) and Connaughton (2010) have shown, advisers frequently demonstrate initiative (too much so for some critics); furthermore, notions of individual ministerial responsibility notwithstanding, ministers often do not accept responsibility for their advisers' conduct. (A sceptic might suggest that part of the purpose for having political advisers at all is to provide ministers with grounds for claiming plausible deniability when things go wrong.)

In addition, in cases in which a minister has placed significant trust in an experienced adviser the relationship is likely to approximate that found in delegated agency bargains, in which advisers have considerable discretion to act within a general framework established by the minister (Hood and Lodge 2006, p. 50).

On balance, however, our sense is that PABs tend to bear a closer resemblance to a directed agency bargain than to its delegated sibling. And within that category, most political advisers are probably personal rather than serial loyalists. Certainly there are caveats (some of them noted above), but our evidence suggests that the comfortable majority of political advisers place a premium on their relationship with the minister, or at the very least to try simultaneously to balance loyalty to both a minister and a government. There are few who endure long enough to serve multiple political mistresses or masters.

Overall, then, the PSB logic accommodates the relationship between a minister and his or her political appointees. It is sometimes difficult to come down definitively on one side of a binary choice but the fundamental descriptive categories generally have significant explanatory utility.

However, things get tricky when the PSB framework is applied to the covenants struck by political advisers and their public service colleagues. When this sort of compact

– let’s call it the Political Adviser/Public Servant (PAPS) bargain – features in the literature, which is not often, it is usually folded into the logic and language of the PSB (see de Visscher and Salomonsen 2012). There are two issues with this. The first stems from the definition of a PSB as an agreement between ‘public servants – the civil or uniformed service of the state – and those they *serve*’ (Hood and Lodge 2006, p. 6; emphasis added). We doubt that many political advisers would willingly embrace the view that their relationship with public servants is one of service. Doubtless, the reverse also applies. Rather, the duty of service is to a third party (or parties) – the minister and/or a government – and it is this that calls into existence the relationship the partisans have with the professionals.

The second issue concerns the structuring and directionality of power. In a PAB the minister is the principal and the adviser the agent. The power to reward and sanction is vertical in both distribution and in flow and is deployed in the context of an asymmetrical relationship. None of this is the case in the standard relationship between advisers and officials. There are exceptions, of course, the most (in)famous of which may have been the Civil Service Order in Council granting formal executive powers to up to three special advisers in Tony Blair’s Prime Minister’s Office. Usually, however, in the PAPS bargain power is more or less horizontally distributed – with the caveat of the adviser who expressly speaks with the delegated authority of the minister – and tends to ebb and flow depending on personalities, the political climate, and the relevant formal and informal institutional rules of the game.

### **Towards conciliation**

This is not the place to attempt a full resolution of these gnarly matters of theory. Nonetheless, here are one or two preliminary thoughts on a way forward. The matter of the extent to which the core PSB typology accommodates the PAB is the easier of the two to attend to. In our view, the nature of the relationship between minister and political adviser, which is clearly one of service, means that the core explanatory categories of the PSB framework – reward, competence, and loyalty – do accommodate the PAB. The precise specification of those dimensions in the context of the minister/political adviser relationship requires more work, but the fundamental logic does its job.

The nature of the relationship between public servants and political advisers, on the other hand, complicates matters. Because it is a relationship between two categories of public official the PAPS bargain has to find a place on the public service bargain

landscape. A particular reading of Hood and Lodge's definition of a PSB, one that emphasizes the part that refers to 'explicit or implicit agreements *between* public servants' (Hood and Lodge 2006, p. 6; emphasis added), might be a place to start. This does away with the focus in the original definition on the 'civil or uniformed' servants of the state (and thus brings political advisers into the light), and removes the requirement to be of service to the other party (which might instead be framed as service in the interests of a third party). In doing so, the gaze is drawn firmly to the explicit and tacit elements of the agreements negotiated between political advisers and their public service counterparts. It's a little expedient, perhaps, but it does provide a path forward.

## **Conclusion**

In the context of the second wave of research on political advisers, the central purpose of this paper has been to make sense of the New Zealand case using Hood and Lodge's PSB framework. That approach puts a good deal of useful theoretical shape around the compacts variously negotiated by and between ministers, ministerial advisers, and the standing bureaucracy on which the contemporary core executive rests. It makes especially good sense of one particular feature of the arrangements in New Zealand that has long struck us as anomalous. Unlike the situation elsewhere the PAB in New Zealand is notable for its tacit, conventional, and informal character. An individual employment contract and three brief references in the Cabinet Manual aside, there is little about it that is explicit. Moreover, there appears to be very little appetite for matters to change. For instance, very few (13.3%) of the ministers who participated in a survey we undertook felt that New Zealand should adopt standard practice elsewhere by having a dedicated code of conduct for advisers, and not one believed such a code should be grounded in legislation.

Beyond New Zealand's specifics, what contribution might our analysis make to the wider PSB scholarship? For one thing, it demonstrates how much more work is needed on sketching out the shape, scope, and particulars of the PAB. The granular detail of the reward, competence, and loyalty dimensions of PABs needs to be specified with greater precision than we have managed here; the nature and incidence of cheating strategies needs elaboration; and an account of the temporal dimension of PABs – the demand and supply sides of which are in a constant state of flux as ministers' and governments'

requirements evolve over time – needs to be developed. Perhaps most challengingly, Hood and Lodge’s matrix of bargain sub-types needs adapting so that it can speak more compellingly to both the PAB and what we have called the PAPS bargain.

The latter, too, requires clearer specification. The New Zealand Cabinet Manual requires ministers and their public service chief executives to ‘establish a clear understanding to ensure that departmental officials know the extent of [political] advisers’ authority’. We imagine that to differing degrees similar requirements apply in many other jurisdictions, yet the various tacit and explicit attributes of the PAPS bargain do not yet feature in the literatures on either political advisers or PSBs. Theoretically and empirically that needs to be remedied.

As elsewhere, ministerial advisers are now an accepted (if begrudgingly so) feature of the landscape of executive government in New Zealand. In this part of the world we have thus far avoided the outcries triggered by political advisers in other countries. But this is largely a function of luck, and New Zealand’s somewhat cavalier approach provides scant reassurance that when the test does arrive, as it must at some point, extant institutional arrangements will pass muster. For that reason alone we would be much comforted were New Zealand to strike a more prudent balance between the implicit and explicit dimensions of the bargains agreed between ministers and their political advisers.

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