

Response speech on Public Sector (Governance) Bill by Minister Ong Ye Kung, 8 January 2018

1. I thank the members for your support and your questions. There were quite a few questions citing specific clauses and sub-clauses, and fairly technical. I'll try my best to answer them all.

Public Sector Governance

2. Let me start by addressing questions from Ms Thanaletchmi and Mr Mahdev Mohan, who asked broader philosophical questions about governance in the government.

3. Ms Thanaletchimi was right to say there we need a balance between central control and getting our statutory boards to have flexibility, autonomy, creativity and innovation.

4. And this is a balance that we have to strike between effective governance – policy consistency on the one hand, and operational autonomy on the other. And it does encourage innovation and creativity.

5. It is the same when a manager runs a department of a few people – you want to give the staff space to take initiative, run with it, work with different people, but they are still your staff. You meet them once in a while, give them support and direction. Every year, it is good HR practice to do appraisal and coach them on their development. And when something goes wrong, you still have to answer for the staff as department head.

6. The same principles apply to statutory boards. The responsible Minister is answerable to Parliament for the performance of the statutory board. The powers to give directions to the statutory board and to approve the appointment of the chief executive (CE) are in line with this accountability to Parliament.

7. But for operational matters, it is better for statutory boards to have autonomy, tapping on Board members. And I agree with Mr Ganesh Rajaram that board members can do more, and be more active, in supporting the governance of statutory boards. And we need to ensure that the board members are from different backgrounds, experience and skills, so they can bring these experience and skills to the table.

8. In answering to Mr Mahdev Mohan, this Bill is really not in response to any Government lapses or incidents, or confusion on the part of public servants. Or that there are instances where statutory boards refuse to comply with a government direction. The purpose is two-fold.

9. One, for the lack of a better word, is neatness. Today we have over 60 statutory boards operating in an increasingly complex and disrupted environment, facing challenges that no single agency can tackle alone. The continued need for statutory boards to be governed well, and work together to provide better public service is all the more pressing.

10. The central agencies therefore did a stock-take of all the statutory board Acts. They found that, of the key governance provisions that are important to uphold to sustain good governance, not all were uniformly present across all Acts. Specifically, on the clause for the responsible Minister to give directions to statutory boards, they are present in many Acts, but written slightly differently with different conventions. There are no good reasons why they are different, other than they were written and passed at different times in history, so we are centralising them into a central Act. It is now clear, transparent, and neat. And should we find the need to amend the provisions in future, the amendment will also be transparent and more effective.

11. Where there are substantive changes from today, I have highlighted them in my Second Reading speech. One is that we are making it explicit that part of the work of the CE of a statutory board is to collaborate with other public agencies. They are already doing so, but we are now hard-coding this, and in so doing, making our direction clear. Two is the setting up of a data sharing regime that I spoke about.

12. Mr Mahdev Mohan specifically asked if the term CE is a new one, mentioned in the Bill. It is not new; it does refer to the CE and the apex job within a statutory board.

13. Mr Ganesh Rajaram asked about the tenure of the CE, and whether posting is too frequent. It is a point that we constantly need to wrestle with in the public service. It is not part of this Bill but we do have to balance between someone staying long—having the experience and stability, but potentially getting entrenched—versus bringing somebody new, with innovative new ideas. And we constantly have to juggle both. What you raised is a pertinent point, and we will continue to consider this very carefully.

14. I also agree with Mr Mahdev Mohan that the broader point is that our system of governance must be one that allows us to constantly work together to recognise problems and improve. What we do not want is a culture of witch-hunt and blame—it doesn't improve things. Our approach has always been to look honestly at our flaws and focus our attention on improvement. And I think this is the culture we want.

15. Ms Chia Yong Yong brought it to an even higher level. She said public service really goes much beyond efficiency. It is also about service to people, kindness and humanity. So likewise if we want to bring about such a culture it goes beyond legislation, but also ensuring that the ethos and spirit are in every single public sector agency and that culture and ethos are upheld. For this to happen, most important of all are the leaders across the various levels of the Public Service: the type of people we bring in, how we make them work together, learn from one another, and uphold the values. And we will continue to place great emphasis on this.

Better Coordination Across Government

16. Let me now move to a topic which is better coordination across government agencies and sometimes within a government agency.

17. This was raised by Mr Zaqy Mohamad, Associate Professor Fatimah Lateef, Dr Intan, and Ms Cheryl Chan, and various examples were given.

18. I agree it is important to coordinate well among public sector agencies as challenges become more complex. This Bill actually sends a strong signal on the importance of cross-agency coordination.

19. For example, the Bill clarifies:

- How the Minister charged with the responsibility for the public sector can work with the relevant Ministers to give directions to statutory boards relating to central policies.
- And second, the CEs of statutory boards now, by law, have to cooperate and collaborate with other public sector agencies to deliver public value.

20. As to how to ensure strong coordination between agencies and reduce wastage, all agencies simply need to work harder, and be more creative, innovative, and citizen-centric. This is a point that Ms Cheryl Chan and Dr Intan both raised. We have seen many such improvement projects. For example:

- A Masterplanning Committee coordinates infrastructure projects.
- There's a OneMap platform which allows 80 agencies to come together on a single platform to provide authoritative location information and services.

21. We will welcome more suggestions from Members. Some of the examples you mentioned are coordination within the departments and they simply need to sort it out. But this matter really goes beyond this Bill, and you don't need this Bill to sort it out. But in my capacity as Minister appointed to champion public sector innovation, if you observe any of this please let me know and we will get it done.

Other Clarifications on the Bill

22. Let me now move on to various technical clarifications. These various issues were raised by Mr Louis Ng, Ms Sylvia Lim, Ms Chia Yong Yong and Dr Intan.

23. First, the Bill does not prescribe the form of the directions. It should not, as Acts that are overly prescriptive rapidly get out of date. Given the purposes for which directions may be given and the subject matter they are to cover, the form of directions will likely be formal instruments.

24. Ms Sylvia Lim mentioned two types of directions. One concerns central Ministry policies, such as governance issues concerning HR and Finance. This typically comes in the form of circulars, and are signed by the respective Permanent Secretaries.

25. Second are policy directions. I would say the Bill does not prescribe this, but the typical way ministries work is that there is brainstorming between political officeholders and staff, including statutory board staff because they have to take into account implementation issues; staff papers are put up, with all the views and considerations and options and recommendations all incorporated, and many angles covered; and then it goes to the right forum which could be the Minister's staff meeting, or the Cabinet for bigger issues, and the proposal is finally approved by the Ministers

or the Cabinet. The decisions are then conveyed through notes of meeting, through to the statutory boards, and it is followed up that way. It has been done for years after years. For those who come from private sector this is quite a big adjustment. In the private sector, documentation is not done so diligently.

26. Clause 4 is merely an extension of the principle in clause 5. Statutory boards are already complying with the Government's central policies today, and clause 4 gives this legislative backing.

27. Mr Louis Ng asked about the scope of the Bill. Simply put, the Bill is written such that the provisions apply by and large to the Singapore Public Service Agency—that's how it is written. And Singapore Public Service Agency is broadly defined, which includes Ministries and departments, statutory boards and organs of state. The Civil Service, SAF, SPF, SCDF, Legal Service are all part of Ministries and departments. So the governance requirements of this Bill apply to them. Likewise the protection under Clause 11, which Ms Sylvia Lim asked about, it extends to every Singapore Public Service Agency.

28. However, for certain clauses, civil service, SAF, SPF, SCDF and Legal Service are excluded, because they are already formally subject to central policy governance requirements that are before this Bill. For the appointment of the head of Ministries, i.e. Permanent Secretaries, the Constitution already provides a framework where appointments are made by the President, acting in accordance with the advice of the Prime Minister, from a list of names submitted by the Public Service Commission.

29. Dr Intan asked about CE removal and that indeed it is not a small matter. Although the Bill does not spell out the exact processes, but it is a serious matter for a CE, which is the apex post of a statutory board, to be removed. A lot of consultation would need to be done before that, and coaching and counselling if it is for performance-related reasons.

30. Ms Chia Yong Yong asked a specific question whether PA is to be exempted from clause 40. The effect of the Notice of Amendment will be that PA will not be exempted from it.

31. Mr Faisal Manap asked about financial-related provisions in relation to MUIS. While MUIS is indeed exempt from clauses 34-41 of the Bill, it is not exempt from similar financial administration requirements, which are already covered by MUIS' constituting Act, namely the Administration of Muslim Law Act (AMLA).

Limit to effect of Minister's directions

32. Ms Sylvia Lim, Mr Chen Show Mao and Mr Leon Perera asked about clause 11.

33. Let me explain how Clause 11 came about. Clause 5 standardises the power of responsible Ministers to give directions to their statutory boards. Clause 4 formalises the requirement for statutory boards to comply with central policies. Then Clause 11 of the Bill presents safeguards to limit the effect of these ministerial directions.

34. There are a few key points to clause 11:

35. First, the minister's directions cannot be inconsistent with written law. For example, the Minister charged with the responsibility for Government records and archives, a point that Mr Chen Show Mao asked about, can direct statutory boards to comply with central policies on the treatment of public records, but these policies must be consistent with the provisions in the National Library Board Act on the role of the National Archives, and the treatment of public records. For example, the Minister's directions to Singapore public sector agencies cannot authorise the destruction of public documents without the authorisation of the National Library Board; much less to destroy a particular archived document. To do so would be inconsistent with National Library Board Act.

36. Second, the minister's directions cannot impede or affect the performance of statutorily independent or quasi-judicial functions. Ms Sylvia Lim asked for an elaboration of what these terms mean.

37. A statutorily independent function is a function which is required by law to be performed independently. The obvious example is the exercise of judicial functions by the Judiciary. But we also have statutory boards like the Civil Aviation Authority of Singapore, the Maritime and Port Authority or the Info-communications Media Development Authority. They are vested with discretion to issue or revoke a licence based on criteria set out in their own legislation.

38. As for a quasi-judicial function, it is a function expected by the law to be discharged, taking into account the facts of the case. Some of our statutory boards have those powers. For example, a disciplinary committee constituted under the Estate Agents Act has the power to decide if there is sufficient cause for disciplinary action against an estate agent "according to the circumstances of the case".

39. Third, the minister's directions should not be specific to a case. So clause 11(3)(b) prohibits any ministerial direction to secure an employment, a promotion or a termination of any particular employee of a Singapore public sector agency. For example Minister cannot direct the award of a procurement contract to any particular tenderer, because that is specific to a particular case or person. And for that matter, the Minister cannot ask the Police to arrest a certain person. I hope Ms Sylvia Lim is not suggesting that this is happening. In fact the Police Force Act makes it quite clear that it is the SPF that has the powers to apprehend offenders. So you look at the Skills Development Fund (SDF) fraud case that happened, while I want the culprits to face the full consequences of the law, I can't ask the Police to arrest them. We report through SkillsFuture Singapore (SSG) to the Police who investigate and make any required arrests. That is the way that things have been done and will be done. Having said that, in my years of public service, I have not come across an impasse between the Minister and public servants on this point. If there is, public servants who feel any pressure from the Ministers can report it to their Permanent Secretaries or to the Head of Civil Service, even PSC or CPIB if the case warrants it and I'm sure they know how to follow up.

40. For Minister, we do handle Meet-the-People Session (MPS) cases as well, and Ministers would have handled hundreds and even thousands of individual cases

appealing for a license to be given or for employment pass to be given, etc. Whatever the case may be, we have had the discipline all these years to write them down as appeal cases, based on the facts of the case, and to send them to the ministries for processing. We can lay out the facts of the case but ultimately, it has to run through the system to be processed. So Clause 11 merely puts a long and existing practice into law. But let me highlight this, if a Minister comes across a case, that highlights the deficiencies in the system or someone who should be guilty and turns out to be innocent, then there is a flaw in the system or in the law, it is incumbent upon Ministers to review and improve the system, together with the agencies under his charge.

41. Let me touch on a point which Mr Faisal Manap raised about what is the definition of being politicised. I think for civil servants to be politicised in the context of this Bill means that they are put under pressure to decide on a specific case. Mr Faisal Manap then went on to talk about a certain advisor, who continued to operate on the ground despite losing the election, but this has nothing to do with this Bill. If there are any specific complaints that you would like to raise, our Deputy Chairman of the People's Association (PA), Minister Chan, has mentioned before that the role of an advisor has to be very clear. It is to serve and to foster cohesion in the community. If they overstep these boundaries and you have reasons to believe so, please raise it with him.

42. Mr Leon Perera gave a narrative about civil servants who have aspirations to be Ministers and therefore second guess the Ministers to be in their good books. In that process, civil servants may become partisan and therefore we should have a policy of garden leave. I think there is a problem with these suggestions.

43. First, about second guessing. In all our work, we do have to anticipate what the needs of our customers are, and the needs of the people we work with. It is very reasonable for civil servants not to be sycophantic but to understand what the ministerial direction is, what the agenda and key priorities of this Government are, and work with the ministers and develop policies in that direction. You could call this "second guessing" and put it negatively, but I think there is value for public servants to plan ahead to better serve customers.

44. I hope the member is not suggesting that civil servants are partisan because the conduct and ethos of civil servants are articulated clearly in the Instruction Manuals, including the need to remain politically impartial.

45. Mr Perera then drew an analogy with the Monetary Authority of Singapore (MAS) and the financial sector, where I think the circumstances are totally different. MAS is a regulator whereas the regulated entity is commercial and profit-seeking. So to prevent conflicts of interest, you do not want MAS officers to be offered a job by the regulated entity while they are still at MAS and therefore the garden leave helps minimise the chances of that happening. Garden leave is widely practiced across financial regimes in the world. But when it comes to civil servants and political office holders, neither one regulates the other, and neither are commercial, profit-seeking entities.

46. Mr Perera also felt that garden leave will help civil servants think more carefully before joining politics. I think anyone, not just civil servants, joining politics today, think very deeply about it before they come in. It is a calling, as you would know.

Benefits of data sharing

47. Mr Zaqy Mohamad, Mr Patrick Tay, Ms Chia Yong Yong asked about data sharing, the scope and the benefits.

48. The data sharing directive seeks to strengthen the rules that enable and govern cross-agency data sharing within the public sector. There are two main areas of improvement. I mentioned this in my second reading speech.

49. First, the Bill provides the bases for data to be shared, and there are seven specific public purposes as stated in the Bill. These will translate broadly into two kinds of initiatives.

50. One, better delivery of services to the individual. This will inevitably have to involve sharing of identifiable and personal data. For example, and Mr Patrick Tay asked for some examples:

51. Improving social assistance programmes or removing repeated filling of forms when applying for Government programmes. I spoke about this during the Second Reading Speech.

52. Where feasible, as Mr Zaqy Mohamad has suggested, specific details will not be shared if not needed for the task, e.g. when you apply for financial assistance, the data can be shared between other agencies with a processing officer, and they can come in the form of whether you meet or don't meet the criteria, and not necessarily tell you how much they earn. That can surely be done, and it would be a good practice.

53. It can also involve not personal data, but information that each agency holds, which when put together offers much better value, such as OneMap, which I mentioned earlier.

54. The second benefit for data sharing is better policy analysis, planning and formulation. This will involve sharing of anonymised, non-identifiable data.

55. For example, when deciding where to build certain facilities, we want to understand the concentration of different segments of Singaporeans. There is no need to know personal details in this instance. So to decide whether to build a senior activity centre, for example, the relevant agency only needs to know the aggregate number of seniors living in a block or various precincts.

56. It can also be about correlating data to derive deeper policy insights. There is an immense amount of work we can do here, to better understand the relations between family background, education experiences, careers and employment, health, social security, so that we can formulate better policies to address our challenges. However, to do so, raw data from various agencies need to come to a centre, where they are matched and anonymised, before release to relevant agencies for analysis.

We intend to set up such centres, where central oversight would mitigate the risk of failing to anonymise data.

Privacy

57. Let me talk about a point that Mr Zaqy Mohamad raised about privacy and big brother watching.

58. This Bill is also in alignment with the Personal Data Protection Act (PDPA). Public Service agencies belong to one Government. They need to share data and information with one another, to best serve the public.

Protection and safeguards

59. This Bill will significantly improve the protection and safeguards of shared data. Beyond the fact that there are now clear bases for data sharing, there are four levels of protection.

60. One, it allows existing data sharing practices to be formalised, such as sharing identifiable information for service delivery and enforcement functions, and using only anonymised information for policy making and planning.

61. Two, by articulating the responsibility of each party involved in the data sharing, it ensures that the same high level of responsibility for data protection is borne by all agencies. So it is now clear that the agency that uses the data is responsible for protecting and safeguarding it. We will be able to redress the current misalignment of incentive, where the owner of data is still responsible.

62. Three, information that is protected by specific legislation today, such as information under the Income Tax Act, the Banking Act and the Statistics Act, will continue to be protected.

63. Four, criminal offences for three data-related offences are also introduced in the Bill to ensure individual officers are responsible and accountable for safeguarding information. This includes the unauthorised disclosure and improper use of information, and specifically, the unauthorised re-identification of anonymised data.

64. The Bill did provide for the flexibility for re-identification of data. That is to deal with contingencies, such as when source agencies' data is corrupted or destroyed. When that happens, re-identification of anonymised data may be performed in order to continue to deliver services to citizens.

65. The purpose of this Bill is not to pave the way for a future where Government knows everything about everyone, and every misdeed everyone committed is all consolidated. If ever there was such an initiative, it would have to be explained. And decision-making, be it for policy, license or grant application, are all reduced to data processing and Artificial Intelligence (AI) algorithms. That is not the future we want. In fact, it would be quite a sad state. If that happens, civil servants will all lose their jobs because we only need computers and software.

66. So in response to what Mr Patrick Tay said, there are algorithms in various software – which will be tested and audited. But when it comes to decision making, there must be human intervention, supervision and judgement all the time.

67. Ms Chia Yong Yong asked for greater clarity on data sharing initiatives. Members, I hope, will feel assured that there is a high level of transparency and public discourse in policy implementation and public service delivery in Singapore. If there is a new service to be delivered, such as HDB's recent initiative to halve the processing time for transaction of resale flats, it will be announced, and how it is done will be explained. For more significant initiatives such as MOH's National Electronic Health Record System, a separate consultation will be held, and new legislation will need to be debated and enacted in this House to protect the users of the system.

68. Mr Madhev Mohan also asked when unauthorised data sharing may not be an offence. The common law already permits sharing of information between public sector agencies where that is in the public interest. The Bill does not allow the data sharing direction to displace the application of the common law. Nor does the data sharing direction seek to do this. It will instead be providing the much needed practical guidance and certainty on what circumstances would be public interest without being exhaustive. So, while the Bill criminalises data sharing other than in accordance to the data sharing direction, it is necessary that clause 7(2)(a) allows a defence where the sharing is authorised or allowed by other law. That other law is a reference to the common law. For example, it can be shared in order to respond to a life-and-death situation of an individual, or in times of a natural disaster where contract tracing is required.

Data sharing beyond the Public Service

69. Mr Gan Thiam Poh and Ms Cheryl Chan asked about data sharing beyond the public service, to VWOs, for example. The Bill covers only sharing of data within the Public Service. It does not include the sharing of data with parties outside of the Public Service, such as VWOs, healthcare providers or private commercial entities.

70. That does not mean today we do not share data with parties outside of the Public Service at all. We do so when there are clear justifications to improve service to the public. For example, to help a student from a dysfunctional family, MOE has to work hand in hand with VWOs, Self-Help Groups or Family Service Centres, and inevitably personal data has to be shared with all these partners. Or we share aggregate data sets with research institutes to conduct research and analysis for the Government.

71. Further, data shared with entities outside of public service, and designated for service delivery, are bound by confidentiality agreements, with contractual terms that prescribes data protection requirements, and these entities are also bound by PDPA and Official Secrets Act. Volunteers are also bound by strict confidentiality agreements, and educated on the appropriate use of the data.

72. Specifically, on the sharing of medical data within the healthcare sector, again this is beyond the scope of this Bill, because the restructured hospitals are not defined as part of public service. But MOH is embarking on the National Electronic Health

Record initiative. It is consulting the public, and tabling a Healthcare Services Bill to enable it to do so, to achieve better health outcomes, and yet safeguard the interest of patients.

73. Having said that, it is true that when this Bill is passed, the framework that governs the sharing of data within the Public Service will be improved and will be better than that for sharing with entities outside of the Public Service, specifically, in areas such as the responsibility to safeguard and protect data. So the framework will be available and set out for the public service, but it will not be extended to sharing outside the public service. This is something we will review, and consider if further legislation is required.

Data accuracy and verification

74. Accuracy of a citizen's personal data, is critical for seamless service delivery.

75. We will assign designated agencies to pro-actively verify and update specified personal data fields, and share that across Government, so that all agencies' databases are up-to-date and accurate.

76. The Government also relies on citizens to verify their own information. MyInfo, the platform mentioned earlier, allows citizens to amend certain personal information, and this information will be shared for transactional services that the Government provides. This ensures that all agencies are using accurate information on the individual based on this latest update.

Data storage and security

77. Mr Zaqy Mohamad, Ms Chia Yong Yong and Mr Gan Thiam Poh also asked about storage and security. Government data is stored in Government systems which are protected against breach. More sensitive information, such as identifiable data, will be held in designated databases with even more limited access and additional protection. There are various measures we have undertaken to protect data.

78. First, controlled access and dissemination. Every civil servant can only access data he is allowed access to. Access rights will continue to be prescribed based on security clearance, and data is only accessed when there is a legitimate purpose or need. The government continues to calibrate IT security policies accordingly, such as having proper access control and/or role-based access of data based on its classification. Deliberate unauthorised access of information is criminalised under other legislation, such as the Computer Misuse and Cybersecurity Act (CMCA). It is also likely to lead to improper use or unauthorised disclosures of data, which are new criminal offences under this Bill.

79. Existing measures to ensure that public servants do not use privileged access to information and data for their personal gain will continue to apply. For example, all public servants have to declare annually their interest in investments and properties.

80. For ex-public servants, the Official Secrets Act (OSA) already requires that they do not retain information once they leave service, and they are culpable under the OSA if they commit any data-related offence in this Bill.

81. The provisions in the Protection of Secrecy Act remain valid and relevant for Statutory Bodies and prescribed Government companies to abide by, and will be a complementary safeguard to this new Bill.

82. Second, institutionalise capability. The Cyber Security Agency (CSA) is a national agency established on 1 Apr 15 to oversee a new national cyber security structure, with the mandate to (a) devise and coordinate national cyber security strategy and policy development, (b) carry out both peacetime capability development and crisis management across all sectors, and (c) adopt a holistic approach towards the management of information infrastructure.

83. Third, Internet surfing separation. In May 2016, the Singapore Government decided that devices connected to government networks would no longer be able to access the Internet, in order to strengthen the Government ICT systems. This was implemented in mid-2017.

84. Fourth, adopting best practices.

85. Fifth, education, because the weakest link is always the human. We always need to educate every single officer to do the right thing so that cybersecurity breaches are minimised. This must include the reporting of our practices, as mentioned by Ms Chia Yong Yong.

86. Mr Deputy Speaker, I think I have answered most, if not all of my questions. I beg to move.

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