



# Briefing

## BRIEFING TO INCOMING MINISTER FOR NATIONAL SECURITY AND INTELLIGENCE

To Minister for National Security and Intelligence (Rt Hon Jacinda Ardern)

Date	2/11/2020	Priority	Routine
Deadline	16/11/2020	Briefing Number	2021NSP/021


### Purpose

This Briefing to Incoming Minister for National Security and Intelligence sets out:

- context of the portfolio, your roles and responsibilities, and how we can support you;
- key areas of focus requiring consideration either immediately or within the next 100 days; and
- future direction of the portfolio, including options for shaping the future programme.

### Recommendations

1. **Note** the contents of this briefing.

 Tony Lynch Deputy Chief Executive National Security Group
2/11/2020

Rt Hon Jacinda Ardern Minister for National Security and Intelligence
...../...../2020

**Contact for telephone discussion if required:**

Name	Position	Telephone	1st contact
Tony Lynch	Deputy Chief Executive, National Security	s9(2)(a)	✓
Pip Swaney	Manager, Security & Intelligence Policy	s9(2)(a)	

**Minister's office comments:**

- ☐ Noted
- ☐ Seen
- ☐ Approved
- ☐ Needs change
- ☐ Withdrawn
- ☐ Not seen by Minister
- ☐ Overtaken by events
- ☐ Referred to



# Briefing to Incoming Minister for National Security and Intelligence

Date	2 November 2020
Priority	Routine
Security classification	<del>Restricted</del>



## Introduction

Welcome to your role as Minister for National Security and Intelligence and the responsible Minister for the National Security Group (NSG) of the Department of the Prime Minister and Cabinet (DPMC).

National security is about ensuring the safety and security of New Zealanders.

This briefing sets out:

- context of the portfolio, your roles and responsibilities, and how we can support you;
- key areas of focus requiring consideration either immediately or within the next 100 days; and
- future direction of the portfolio, including options for shaping the future programme.

New Zealanders, and our National Security System, have faced unprecedented challenges over the last three years – from New Zealand's first large-scale terrorist attack and the impact of COVID-19, along with a number of significant natural disasters and weather events, including the eruption of Whakaari/White Island and the Northland drought.

These challenges confirm that New Zealand continues to face a growing and complex range of national security risks. These risks require greater cooperation across government, agencies, local government and our communities. We know we must continue to adapt to meet these risks to ensure that New Zealanders are kept safe and secure.


In the coming three years there will be opportunities for you, as Prime Minister and Minister for National Security and Intelligence, to enhance the way in which national security is managed across government. Recent events warrant consideration of whether the operation and structure of the National Security System is fit-for-purpose for the types of events we may face in the future.

## Recommendation

The Department of the Prime Minister and Cabinet recommends that you:

- 1 **Note** the contents of this briefing.

NOTED



Tony Lynch  
**Deputy Chief Executive  
Department of the Prime Minister  
and Cabinet**

Date: 2 / 11 / 2020

Rt Hon Jacinda Ardern  
**Minister for National Security and  
Intelligence**

Date: / / 2020



# Your roles and responsibilities

## **As Prime Minister and Minister for National Security and Intelligence, you are the leader of the National Security System**

New Zealand defines national security as the condition that permits the citizens of New Zealand to go about their daily lives confidently free from fear and able to make the most of opportunities to advance their way of lives. To reflect this broad definition, successive governments have taken an “all hazards, all risks” approach to national security.<sup>1</sup>

As Prime Minister, you are the lead decision maker in the National Security System. The responsibilities of the National Security and Intelligence portfolio include oversight of the broad national security and intelligence sector and setting the overall direction and policy for that sector.

## **The Prime Minister carries out several national security and intelligence responsibilities within legislation**

Under the Intelligence and Security Act 2017, the Prime Minister has several roles and responsibilities that may need to be exercised within this term of government, including:

- to recommend to the Governor-General who should be appointed as Commissioners of Intelligence Warrants, the Inspector-General of Intelligence and Security (IGIS) and their Deputy, and members of the IGIS Advisory Panel;
- to chair the Intelligence and Security Committee (ISC) of parliament, and to present to the House of Representatives for endorsement the names of members of the committee;
- to appoint two reviewers to conduct the periodic review of the intelligence and security agencies [the next review being required no earlier than September 2022]; and
- to request the IGIS conduct an inquiry into the activities of the intelligence and security agencies, should the need arise.

DPMC administers the Intelligence and Security Act, with the Ministry of Justice leading on advice related to the IGIS and Deputy IGIS appointments and the periodic review of the agencies.

The Terrorism Suppression Act 2002 is another key piece of national security legislation conferring responsibilities on the Prime Minister. Under that Act, the Prime Minister can designate an individual or entity as a terrorist or associated entity. The legislation is administered by the Ministry of Justice, with policy support on designations provided to you by DPMC.

There are also additional powers available to the Prime Minister under the International Terrorism (Emergency Powers) Act 1987, also administered by DPMC, although these have never been used.

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<sup>1</sup> This approach was formalised by a Cabinet decision in 2001 [POL Min (01) 33/18].

## **The National Security Group of DPMC supports you as Prime Minister and Minister for National Security and Intelligence**

On your behalf, DPMC stewards the National Security System. The Chief Executive of DPMC is New Zealand's lead official for national security and head of the National Security System at the officials' level, as Chair of the Officials' Committee for Domestic and External Security Coordination (ODESC).

The National Security Group (NSG) is a business unit of DPMC; the Deputy Chief Executive National Security supports the Chief Executive by overseeing the functioning of the National Security System, advising on national security direction, and overseeing the performance of the functions assigned to the Chief Executive under the Intelligence and Security Act.

NSG works with and through other agencies to achieve national security outcomes. In particular, it supports the operation of the National Security System as a whole, to ensure that potential national security risks to New Zealand are recognised and assessed, risks are reduced where possible, readiness is built and maintained, and responses to, and recovery from, emergencies are timely, coordinated and effective.

NSG has a statutory role in relation to the intelligence community, conferred on the Chief Executive DPMC by the Intelligence and Security Act. This role includes the provision of intelligence assessments to Ministers and departments, advice to Ministers on the setting of priorities for intelligence collection and analysis, and advice to departments on best practice for intelligence assessments.<sup>2</sup>

## **The National Security System supports you and the executive government in a crisis response**

During a crisis response the National Security System tends to concentrate on strategic matters and looks to guide agencies' involvement to ensure that resources are being directed to where they are most needed. This also assists the lead agency to concentrate on the operational response.

In many events NSG will have been providing you advice in the lead-up to the incident happening, and government agencies will have started to coordinate their actions and provide advice to Ministers. Ideally, and if time permits, the relevant Cabinet committee will have had time to consider the event and provide guidance to officials.

## **The National Security System has been activated in support of the COVID-19 response since January 2020**

A bespoke national response structure was necessarily developed for COVID-19, and has been adjusted in response to the rapidly evolving, complex situation.

s9(2)(f)(iv)

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<sup>2</sup> The Intelligence and Security Act requires the Chief Executive of DPMC to designate an employee of DPMC to carry out the functions related to intelligence assessment. This is designated to the Director National Assessments Bureau.



## Immediate priorities and decisions

### **There is overlap in responsibilities within the National Security and Intelligence portfolio with other portfolios and agencies, which you may wish to clarify early**

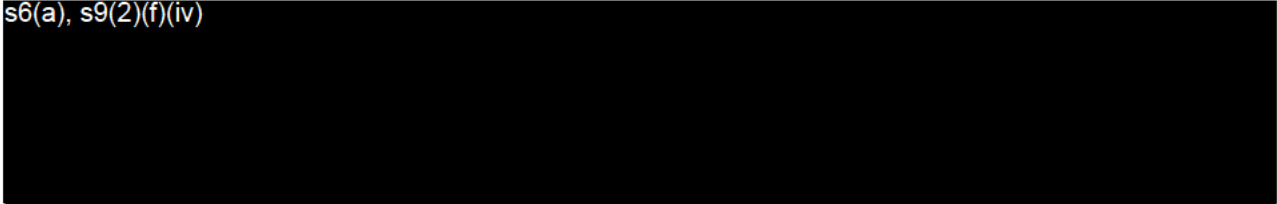
The National Security and Intelligence portfolio gives you strategic policy and legislative overview responsibilities for the intelligence and security agencies, the Government Communications Security Bureau (GCSB) and the New Zealand Security Intelligence Service (NZSIS). This is a stewardship role.

Ministerial oversight of the day-to-day operational activities of GCSB and NZSIS sits with the Minister responsible for those agencies. DPMC provides policy advice directly to the Minister responsible where it is related to the Intelligence and Security Act.

Past practice has been for the Prime Minister to allocate responsibility for cyber security policy from the National Security and Intelligence portfolio to the Minister for Broadcasting, Communications, and Digital Media.

Past practice has also been for the Minister for National Security and Intelligence to informally allocate responsibility for attendance at the Five Country Ministerial (FCM) to another ministerial portfolio. The FCM is an annual meeting of the home affairs, interior, security and immigration ministers of Australia, Canada, New Zealand, the United Kingdom and the United States of America. New Zealand attendance in previous years has been by the Minister of Justice or the Minister Responsible for the GCSB and NZSIS (even though intelligence matters do not usually feature as part of the FCM) and the Minister of Immigration, supported by DPMC and Immigration New Zealand.

s6(a), s9(2)(f)(iv)



### **There are several significant pieces of work that we will brief you on, and seek decisions in relation to, within the first 100 days of your new Government**

#### **Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019**

The Royal Commission is scheduled to provide its report to the Governor-General on 26 November 2020. The Royal Commission is examining what State sector agencies knew about the individual's activities before the attack; what they did with that information; what measures agencies could have taken to prevent the attack; and what measures agencies should take to prevent such attacks in the future.<sup>3</sup>

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<sup>3</sup> Royal Commission Terms of Reference <http://www.legislation.govt.nz/regulation/public/2019/0072/latest/LMS183988.html>



Before the reporting date, you may wish to seek your new Cabinet's endorsement of previously-agreed responsibilities, structures and approach to the Government Response. Further details of these are provided at **Attachment A**.

We will provide a follow up briefing to you which will outline in more detail the structure and responsibilities for the Government response to the Commission's report and the outreach strategy, to seek your confirmation of the approach.

### **Establishment of the Intelligence and Security Committee (ISC) for the 53<sup>rd</sup> Parliament**

The ISC is a statutory committee of Parliament and forms an important part of the oversight regime for the intelligence and security agencies. Functions of the ISC include examination of the policy, administration and expenditure of each intelligence and security agency. As Prime Minister you are the Chair of the committee. The ISC is re-established with each new Parliament. Before the Committee can meet you will need to consult with the Leader of the Opposition to determine the size and membership of the committee. The membership must then be endorsed by the House of Representatives.

The first meeting of the ISC will be to consider the annual report of the IGIS. NSG will provide you separate advice to support the process of re-establishing the ISC and the timing of the first meeting.

### **Response to the Inquiry into Operation Burnham and related matters**

In the last term of Government, the then-Cabinet agreed to the Government's response to the inquiry, which included accepting the recommendations of the inquiry in-principle and tasking officials to provide further advice on their implementation.

As part of this work, DPMC has been directed to work on two of the recommendations due to their relationship with similar matters faced by the intelligence and security agencies: effective detention policies and procedures, and the establishment of an independent Inspector-General of Defence. Progress reports on the workstreams are due to ERS (or its successor committee) by mid-December 2020.

### **Statutory appointments**

There are two statutory appointments under the Intelligence and Security Act to be made early in the new term: the Deputy IGIS and a member of the Advisory Panel to the IGIS. DPMC is also developing advice on appointing a third Commissioner of Intelligence Warrants.<sup>4</sup> The Ministry of Justice will lead the process and provide advice on the Deputy IGIS appointment, and DPMC will provide advice on the remaining appointments.

These appointments are made by the Prime Minister and involve consultation with the Intelligence and Security Committee. We will support you in this process.

### **Update to the National Security and Intelligence Priorities**

The 16 classified National Security and Intelligence Priorities provide you and your Cabinet an opportunity to set the Government's priorities for intelligence, assessment and other relevant

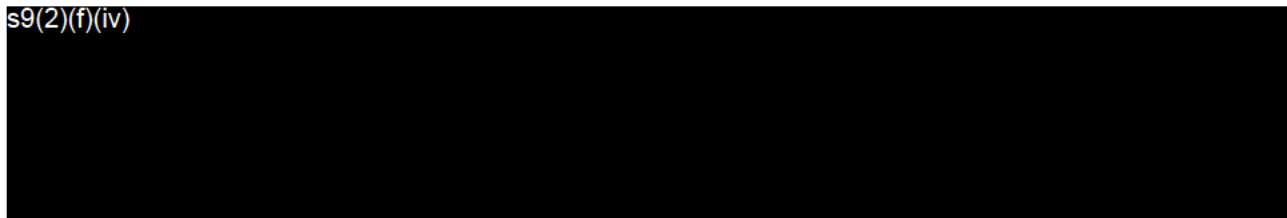
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<sup>4</sup> This is a precautionary measure resulting from the COVID-19 experience, which highlighted the potential risk of having just two Commissioners, both located in the same city and both in the vulnerable age bracket. The appointment of a third Commissioner, located in a different city, would provide additional flexibility to ensure continuity for approving intelligence warrants.

reporting (including open source, diplomatic and other classified information). The priorities help agencies streamline and prioritise resourcing and information needs, to help deliver well-informed, evidence-based decision making on our most important national security issues.

An unclassified version of the Priorities was released for the first time publicly in October 2019. This demonstrated a commitment to transparency and has been a useful step in facilitating academic engagement on national security issues.

s9(2)(f)(iv)



### **Counter-terrorism legislation reforms**

In 2018, officials were directed to explore possible improvements to counter-terrorism legislation and several aspects of this broader review were expedited following the 15 March 2019 terrorist attack.

In November 2019, the previous Cabinet made decisions on the first tranche of policy proposals, and a Counter-Terrorism Legislation Bill has been prepared (this covers a new offence to criminalise international travel with intent to commit a specified terrorism offence and an amended terrorism finance offence framework).

A Cabinet paper has been prepared seeking agreement to a second tranche of policy proposals and if agreed, those amendments will be added to the Counter-Terrorism Legislation Bill (this covers a new offence to criminalise planning or preparation for a terrorist act, a new offence to clearly criminalise terrorist training, amendments to the definition of "terrorist act", and an expansion of the Control Orders Act 2019). It was intended that the Counter-Terrorism Bill be introduced to the House in July 2020, however this was delayed due to the impact of COVID-19. The Ministry of Justice will provide advice on this before the end of the year.

### **Preventing and countering violent extremism strategy**

DPMC is working with the Department of Internal Affairs to develop a more strategic approach to preventing and countering violent extremism, as a key component of implementing the Counter-Terrorism Strategy. This will build on work already underway within the Department of Internal Affairs to address violent extremist content online, with a particular focus on working alongside key agencies to support prevention and harm minimisation initiatives both new and already underway. It would be useful for Cabinet to consider a paper early in the new term to agree priorities for this work and consider resourcing requirements.

## Future programme and options

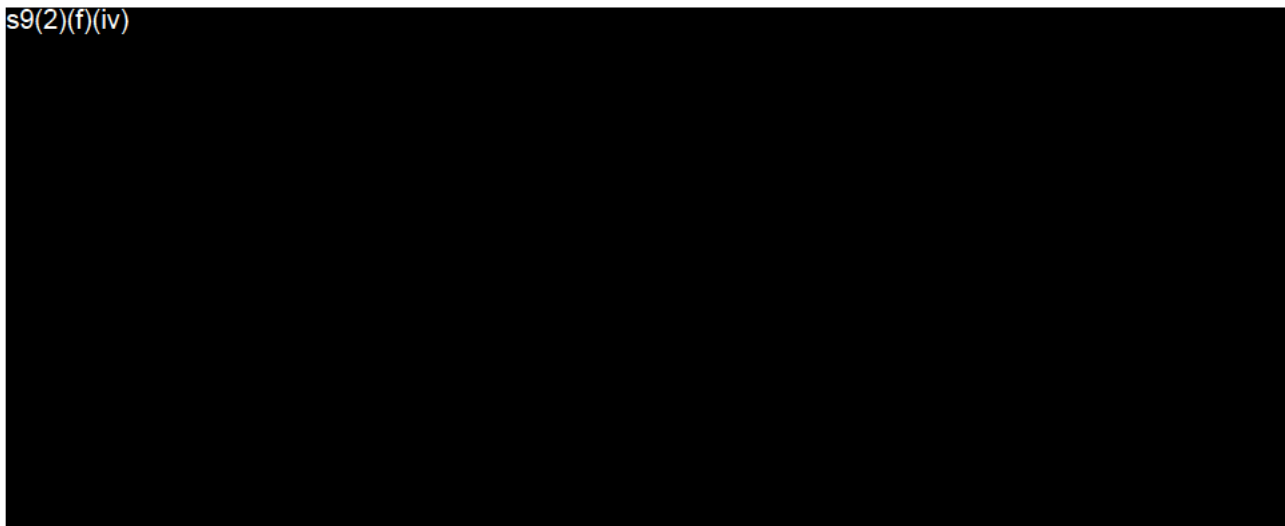
We will brief you on aspects of the portfolio's work programme that are in the early stages of development, to seek your direction on priorities and options for future work. These include:

### **A more strategic approach to national security**

The Royal Commission, COVID-19, changing domestic and international strategic environments and a commitment to continuous improvement provide fresh impetus to consider taking a more strategic approach to national security.

With the support of the Security and Intelligence Board chief executives,<sup>5</sup> NSG is leading work to develop an overarching framework that is future-focused and promotes alignment and cohesion across the national security and intelligence sector.

s9(2)(f)(iv)



### **Counter-terrorism system capability review**

The Counter-Terrorism Coordination Committee (a sub-committee of the Security and Intelligence Board) recently completed a high-level review of system capabilities for countering terrorism and violent extremism and options for enhancing those capabilities. The review has identified improvement opportunities in several key capability groups, which are under consideration by officials. The system's counter-terrorism capability is likely to arise in the Royal Commission's report and therefore addressing the findings in this review will need to be an area of focus. We will brief you on the findings of the review and proposed priority actions.

### **Work programme of the Prime Minister's Special Representative on Cyber and Digital**

The Prime Minister's Special Representative on Cyber and Digital was appointed in March 2020 and is based in DPMC. Since then the Special Representative's work has particularly focused on delivery of the Christchurch Call (especially the re-launch of the Global Internet Forum to Counter Terrorism), establishment of onshore cloud computing capabilities, engagement with industry and

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<sup>5</sup> The Security and Intelligence Board is chaired by the Deputy Chief Executive National Security of DPMC. Membership includes the Chief Executives of DPMC, GCSB, Ministry of Foreign Affairs and Trade, Ministry of Defence, New Zealand Customs Service, New Zealand Defence Force, NZ Police, and the NZSIS.



international partners on encryption, and work with industry, civil society, and partners on a range of other digital issues.

This engagement has led to requests from industry, civil society and partners for New Zealand, and the Prime Minister, to play a leadership role on digital issues. We will check in with you early to discuss your ambitions and expectations in relation to the Christchurch Call, expectations for the role of Prime Minister's Special Representative on Cyber and Digital, and possible priority areas for a programme of work on cyber and digital issues.

### **Cyber security policy issues**

We will engage with you on issues which require consideration in this term, including whether to progress work related to effective public safety and law enforcement in a digital age. As technology is evolving, ensuring effective public safety and law enforcement is becoming more difficult. This may require consideration of how to progress work related to ensuring effective public safety and law enforcement in a digital age.

s9(2)(f)(iv)

s9(2)(f)(iv)

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<sup>6</sup> A separate briefing to the incoming Minister for the Digital Economy and Communications has been prepared, covering cyber security policy issues.

# Attachment A: Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019 – approach to the Government Response

## Response structure and responsibilities

Cabinet previously agreed a group of lead Ministers to engage with the Royal Commission and officials to progress the findings of the Royal Commission for Cabinet consideration.<sup>7</sup> Cabinet also charged the Security and Intelligence Board with overseeing the government response at officials' level. The Lead Official is the Deputy Chief Executive National Security, DPMC (Tony Lynch).

A Response Steering Group (RSG), which includes policy, legal and communications functions and officials from 16 agencies, is responsible for considering the Royal Commission's findings and recommendations and for providing advice to the Lead Official, SIB and responsible Ministers. The RSG is chaired by the Director, National Security Policy, DPMC (Dan Eaton).

## Timeline and key steps

Officials are working with the RCOI to ensure sensitive, classified and partner-originated information is appropriately protected. Officials may need to undertake a classification check to provide full and final verification that all the information in the report can be made public once it is provided to the Governor-General.

The Governor-General is required to provide the report to the Responsible Minister (Internal Affairs) for presentation to the House of Representatives, thereby releasing it to the public 'as soon as practicable after the inquiry has reported'. Depending on the new sitting calendar, this may be able to occur in early to mid-December.

Ministers may need to urgently respond to questions following the public release of the Royal Commission report. Officials will work to anticipate these and prepare communications to support you with this process.

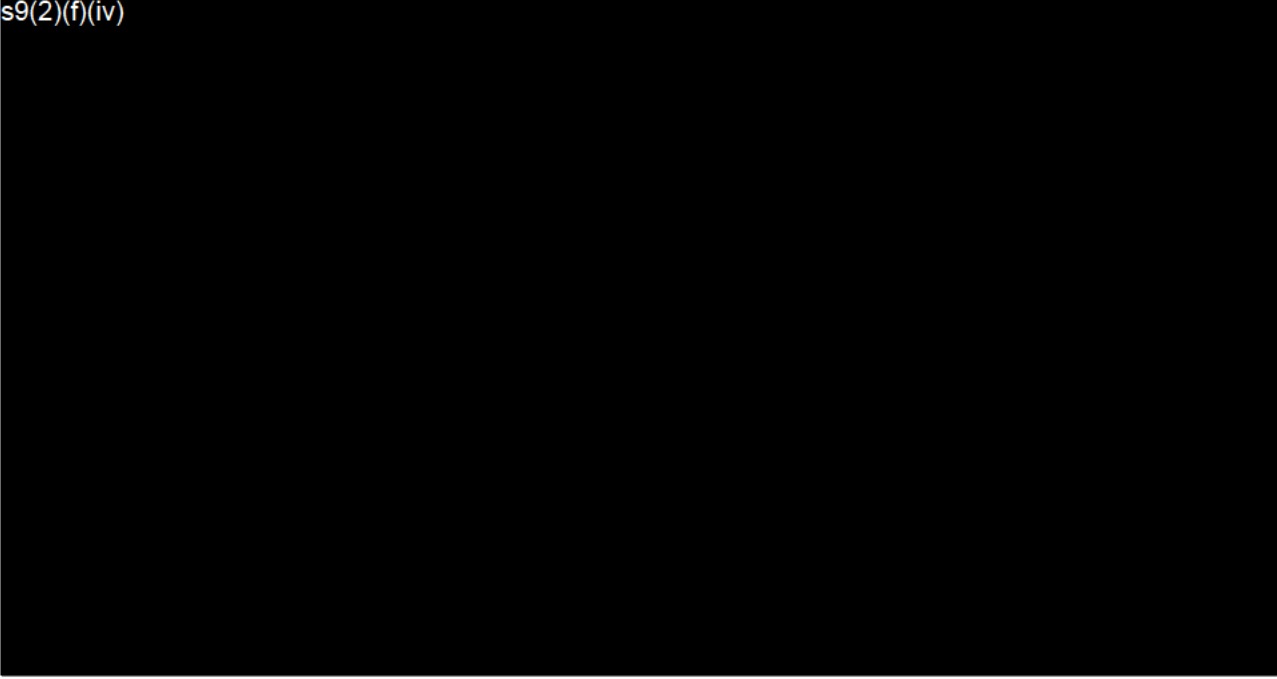
## Responding to the recommendations

Ministers and officials are unlikely to receive the full report prior to it being finalised. While no officials have seen the Royal Commission's findings or recommendations, we believe these are likely to recommend changes across the National Security System, on social inclusions and on the composition and practices of the public service, with potential operational and budget implications.

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<sup>7</sup> ERS-19-MIN-0026 refers. The lead Ministers are the Minister for National Security and Intelligence, Minister of Police, Minister Responsible for the Government Communications Security Bureau, Minister Responsible for the New Zealand Security Intelligence Service, Minister of Customs, Minister of Immigration, Minister of Internal Affairs and the Minister for Ethnic Communities.

s9(2)(f)(iv)



## **Expectations for the Government response and outreach to communities**

The Royal Commission has engaged with Muslim communities and other faith-based communities as part of its inquiry process. Muslim and other communities have made substantial submissions to the Royal Commission, and consequently will have high expectations of Government in addressing the issues they have raised. The RSG is developing a strategy for outreach to inform the Government response.