

## Purpose

This paper provides general advice for public sector entities about bargaining near an election.

Please read it in conjunction with any recent and related Commission guidance or Cabinet Office circulars.

## Public Sector collective bargaining during an election year

Collective bargaining near an election adds complexity and sensitivity to public sector employment relations. It is important we ensure we have appropriate practices and processes during that time to support current and successive governments to maintain confidence in the public sector employment relations community.

This paper provides general advice for public sector entities about bargaining during this time. It is designed to help you plan, know when to get help and where to find key resources on this topic. The advice focuses on the post-election caretaker period, where collective bargaining is most likely to be disrupted.

Each election year sees the Cabinet Office update its guidance on decision making during this period. As this paper was written in late 2025, well ahead of the likely date of the next election, please read it in conjunction with any recent and related Cabinet Office circulars.

While this advice has been framed in relation to collective agreement bargaining, it can also apply to other employment relations activity (such as pay equity, remuneration reviews, changes to terms and conditions for staff on IEAs).

## Who does this advice cover?

This advice is primarily written for departments and crown entities, including those agencies that undertake bargaining under delegation or in consultation with the Public Service Commission. However, the advice here is general and may also be relevant to state owned enterprises and other public sector agencies.

The reason for this is that the Cabinet Manual provides that all of these agencies should apply the principles of the caretaker convention (which applies after the election and before the appointment of the incoming government), to the extent permitted by law (paragraph 6.34 of the Cabinet Manual). Typically, Cabinet Office advice during this time will be issued to all public sector entities.

## Pre-election period

While the date for a general election is often announced early in the relevant calendar year, the “pre-election period” is generally considered to be the three months before a general election. This three-month pre-election period is often erroneously described as being a period of caretaker government. That is not correct. The government continues to have all of its full powers to govern until the election.

However, during the pre-election period successive governments have chosen to exercise restraint in two main areas:

- making significant appointments
- some government advertising campaigns, where there might be perception that government funds are being used to pay for publicity for party political purposes (with Government advertising defined as publicly funded processes that publicise any policy, product, service, or activity provided at public expense by the government; see also Public Service Guidance).

This restraint recognises that an election and, therefore, potentially a change in government is imminent.

In our experience it is unlikely that these areas of restraint will encompass normal employment relations activity. But if you are asked to consider a joint announcement with a union or similar during this period, please make yourself familiar with the relevant expectations and seek further advice if you have any doubts.

Advocates should also be aware of the very practical effect on bargaining during this time if Ministerial engagement is required for any reason. Ministers are often less accessible during campaigns and may be reluctant to make significant decisions due to competing priorities. Employment relations practitioners should plan ahead for this situation and seek to limit the likelihood of requiring Ministerial engagement during this time.

## Following an election and before it is clear who will form the next government

The caretaker convention applies after a general election until an incoming government has been appointed. There are two arms to the caretaker convention. Which arm applies depends on whether (a) it is not clear who will form the next government; or (b) it is clear who will form the next government, but they have not yet taken office. This advice focuses on the first arm of the convention, which may apply for some time if negotiations to form a government are ongoing.

Where it is not clear who will form the next government (paragraph 6.25 of the Cabinet Manual):

- Day to day administration of public service agencies and other agencies in the public sector should continue during this time.
- Decisions that have been taken before the election may generally be implemented.

- Significant issues, or issues with long-term implications, and changes to existing policy, should be deferred where possible, or temporary arrangements put in place (see further on this below).

Although generally speaking, significant decisions are made by Ministers and Cabinet, chief executives should also observe the principles of the caretaker convention when exercising their independent statutory functions during this period (paragraph 6.33 of the Cabinet Manual). Chief executives and their advisers are therefore asked to use careful judgement and seek advice if they believe that they are making a significant change to employment terms and conditions or undertaking bargaining during the caretaker period.

Key things to note include:

- “Significant” decisions (paragraph 6.25 of the Cabinet Manual) can include consideration of scale (size of spend) and profile (type of workforce). “Potentially controversial” (same paragraph) could also include whether it is a workforce where the incoming government may have views on its arrangements or nature of the offer. For instance, does it run a risk of appearing to run counter to a known or likely policy position.
- Having the budget to make a significant decision, whether because of an existing appropriation, or a Cabinet decision to fund in principle (or similar), may not be sufficient to implement the decision during the caretaker period (paragraph 6.26 of the Cabinet Manual). While the funding might have been approved, it hasn’t yet been committed, and an incoming government might choose to apply it in a different way.
- Where there are decisions that are significant, potentially controversial, have long-term implications that would be likely to limit the freedom of action of an incoming government or meet any of the other criteria in para 6.25(c) of the Cabinet Manual, you need to consider deferral as the first option; provided you can do so within your good faith obligations. If a decision can’t be deferred, consider whether a temporary arrangement is possible. Note that temporary arrangements have to be truly temporary (e.g. if short term contracts may in effect might bind a future government to higher pay rates going forward they may not be considered temporary).
- If neither deferral nor temporary arrangements are possible, the caretaker convention requires consultation with the Leader of the Opposition, via PMO and with the PM’s consent. The PMO has previously advised that plenty of time should be allowed because government formation negotiations are likely to be taking priority.

None of this should be read as suggesting that any obligations under the Employment Relations Act (or any other legal obligations) should be discarded. Agencies must continue to meet existing statutory and other legal requirements. Good faith may require employers to be transparent about the convention and their obligations under it, including the expectation to defer. We would recommend that you draw your union’s attention to the relevant guidance (and this document) well ahead of the election if it is likely that you will be bargaining or undertaking joint work during this period of time.

## When it is clear who will form the next government

Different advice will apply in the situation where it is clear which party or parties will form the new government. In that situation the Cabinet Manual advises that the outgoing government should undertake no new policy initiative. The outgoing government should act on the advice on the incoming government on any matter of significance that can not be delayed until the new government formally takes office.

In this situation, the Cabinet Office will provide specific advice to apply prior to the formal appointment of the Government.

## Once the government is formed

Once a government is formed, and Ministers are sworn in, employment relations activity can return to normal.

Where there is a change in the Government make up, it can however, take a while for some of the components that make up the framework within which public sector bargaining is conducted to be in place.

For instance:

- It can take several months for a new Government to consider and issue new expectations through a Government Workforce Policy Statement. The Commission will communicate to all agencies if the existing statement is revoked. However, it is more likely that the existing Statement will apply until such time as it is replaced.
- Since 2009 we have had a version of a Ministerial forum to oversee State sector employment relations. However, the choice of whether to have a forum is a decision for each new government to make. The time taken to consider and approve the establishment and design of these forums has varied across different governments.
- Budget guidance and other settings may also be relevant and again they may take some time to be established.

Please work closely with the Commission ER team during this time to ensure that your approach is reflective of the new government's expectations.

## Where you can find further advice

The Public Service Commission's Employment Relations team is always here to help, but there are a number of different sources of information that are also helpful during this time.

Your own agency will have people that are well versed in the guidance that applies during this time. If your agency is part of the Integrity Champions Network coordinated by the Commission, then your Integrity Champion is likely to be your first point of call. Your Chief Executive's office, legal team and communication teams are also all likely to be reflecting on any implications for their work from the election and may be useful to consult with.



Outside of your own agency, the Commission and the Cabinet Office play a key role in providing advice and guidance to the system on what it means to work in the public sector before, during, and after an election. The relevant Cabinet Office circulars will always be found on the DPMC website [here](#). The Commission's general election guidance can be found [here](#). Keep an eye out for information near the start of an election year and as the election period progresses.

## References

[CO \(26\) 1: Government Decisions and Actions in the Pre-election Period | Department of the Prime Minister and Cabinet \(DPMC\)](#)

[CO \(23\) 10: Government Decision Making during the Period of Caretaker Government](#)

[6. Elections, Transitions, and Government Formation | Department of the Prime Minister and Cabinet \(DPMC\)](#)

[General Election Guidance 2026 - Te Kawa Mataaho Public Service Commission](#)