



He Ārahitanga Pōtitanga Whānui

General Election Guidance 2023

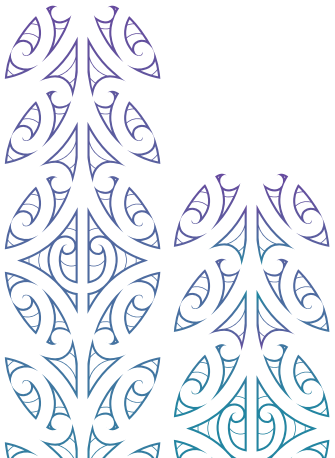


Te Kawa Mataaho
Public Service Commission

Te Kāwanatanga o Aotearoa
New Zealand Government

Contents

Mai i te Kaikōmihana o Te Kawa Mataaho Foreword by Peter Hughes, Public Service Commissioner.....	3
1. Kupu whakataki Introduction.....	4
2. Te mahi i ngā whakahaere kāwanatanga Public servants at work.....	6
3. Mō te kaimahi tari kāwanatanga i waho atu i ngā hāora mahi Public servants outside work.....	9
4. Ngā kawenga o ngā tari o te kāwanatanga Responsibilities of public sector agencies.....	16
5. Te pānuitanga, te whakaaturanga me te pāpāho Public sector advertising, publicity and the media.....	21
6. Ngā kaimahi tari kāwanatanga me te Pōti Nui The public sector and the general election.....	27
7. Ngā tukanga ā-kāwanatanga mō te pōtitanga Government processes before, during and after an election.....	31
Appendix A: Ngā Horopaki Case Studies.....	34



Mai i te Kaikōmihana o Te Kawa Mataaho

Foreword by Peter Hughes, Public Service Commissioner

It is my privilege to release He Ārahitanga Pōtitanga Whānui | General Election Guidance 2023.

Although the guidance has been updated, the mission of the public sector remains the same – to serve the government of the day, and all New Zealanders, in a way that upholds their trust and confidence.

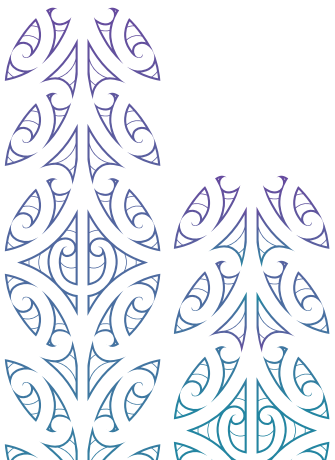
Later this year, our country will go to the polls. General elections are a significant part of our democratic form of government. It is important to publish this guidance to support the public sector to do the right thing during the election period.

I want to briefly highlight one of the things this guidance makes clear: public servants have the same rights to freedom of expression and political activity in their private lives as other New Zealanders.

The Public Service Act 2020 explicitly acknowledges that public servants have all the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990. Along with these rights and freedoms, the Act enshrines the principle of political neutrality, along with free and frank advice, open government, merit-based appointment and stewardship. It aims to recognise and preserve these principles for the public sector of today and for future generations.

I encourage everyone working in the public sector to take the time to read this guidance and think about how it might apply to them. We all have a role to play to ensure the integrity of our electoral process and the operation of government.

It is important that, during the election period, the public sector continues to support the elected government with robust and impartial advice, sound business decision-making and effective delivery of services.



1

Kupu whakataki Introduction

He Ārahitanga Pōtitanga Whānui | General Election Guidance 2023 covers what it means to work in the public sector before, during, and after an election.

General elections are a significant part of our democratic form of government. This guidance supports the public sector to maintain political neutrality and do the right thing during the election period.

It recognises that public servants will be exercising their political rights and freedoms as voters in the election and have personal political interests.

This guidance will help public servants navigate the heightened sensitivity during an election year. This guidance is not limited to the official pre-election period and should be applied as a matter of good practice from the date it is issued.

This guidance has been refreshed and updated to reflect the current public sector environment. It identifies common principles and obligations that will help people who work in the public sector during the

lead-up to, and immediately after, the 2023 general election. There is more information in areas such as social media and advertising. It also includes new case studies.

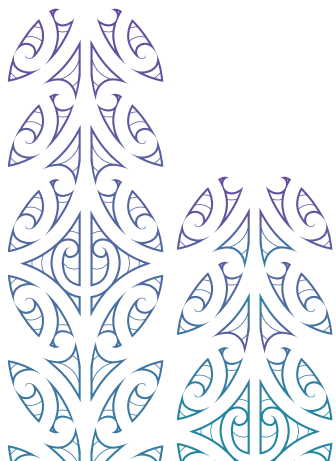
There is information on the three phases of the election cycle: the pre-election period (the three months before the election), election day, and the post-election period (the period after the election until the appointment of a new government). It looks at how the phases affect government business and government processes; in particular, government advertising and the release of government information.

There is also information on where to get further help on election-related issues and guidance on election preparation for agencies.

Who this guidance is for

This guidance applies to most public sector agencies and their staff. The Public Service Commissioner has issued this guidance under section 19 of the Public Service Act 2020 to provide advice and guidance to the

¹ For the purpose of this guidance, 'public servant' means any employee or contractor for the agencies listed in the section: Who this guidance is for



public sector on political neutrality and integrity and conduct during the election period.

In general, this guidance applies to the following agencies (referred to as ‘the public sector’ in this Guidance):

- Public Service departments, departmental agencies, interdepartmental executive boards and interdepartmental ventures
- Parliamentary Counsel Office
- Crown entities (including Te Whatu Ora — Health New Zealand and school boards but excluding Crown Research Institutes and their subsidiaries and tertiary education institutions)
- Public Finance Act 1989 Schedule 4A companies
- Te Aka Whai Ora — Māori Health Authority

Some public sector agencies do not come within the Public Service Commissioner’s guidance mandate, but they are still expected to observe the guidelines. These agencies include:

- New Zealand Defence Force
- New Zealand Police
- Crown Research Institutes and their subsidiaries
- Public Finance Act 1989 Schedule 4 organisations

- Public Finance Act 1989 Schedule 5 Mixed ownership model companies
- State-owned enterprises
- Tertiary education institutions such as universities

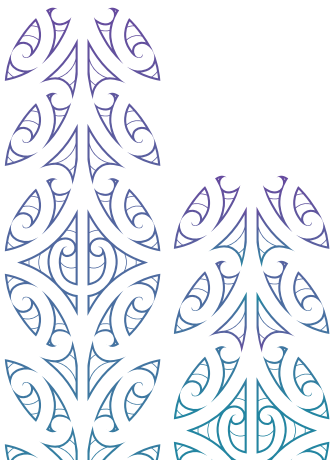
However, anyone can use this guidance to know more about political neutrality, and integrity and conduct obligations, that are generally appropriate for public servants.

This general election guidance does not apply to other types of elections, such as local council elections. There are different legislative requirements for regional, city and district council, community board, local board and licensing trust elections.

Read Chapter 3 of the Cabinet Manual for further [information on the integrity and conduct obligations of public servants](#).

Read the Electoral Commission’s [rules that apply to election advertising](#).

For further information about the codes and standards that apply to election programmes and advertising, see the following websites: [Advertising Standards Authority](#), [Broadcasting Standards Authority](#) and [New Zealand Media Council](#).



2

Te mahi i ngā whakahaere kāwanatanga **Public servants at work**

Public servants are affected by general elections in two ways: at work, by supporting the operation of government and a change of government, and in their private life, through participating in the democratic process as active citizens, voters and potential election candidates.

A fundamental right in any democracy is the right to vote. An effective and relevant political system will broadly reflect the society it represents. Our democracy is supported by those working in the public sector who exercise their political rights along with other New Zealanders.

Public servants have the same rights to freedom of speech and political activity in their private lives as other New Zealanders. All public servants have a role to play in supporting the integrity of our electoral process and the smooth transition between one government and the next.

Serving government requires public servants to perform their role fairly, impartially and to a high standard.

The public sector must ensure it maintains the trust and

confidence of both current and future governments, and the public. For example, those working in policy must provide the best, impartial, evidence-based policy advice to Ministers, while those in operational roles must deliver high-quality services to all New Zealanders, in order to maintain public trust.

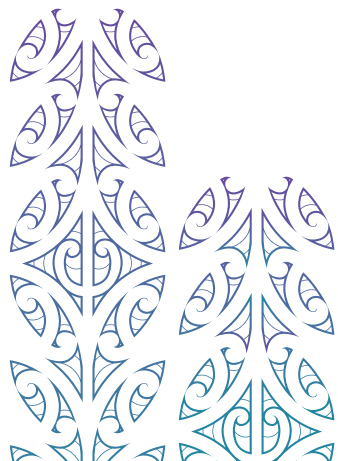
This guidance outlines some of the factors to consider in managing personal political interests alongside the public sector's political neutrality obligations.

Integrity and conduct obligations

This guidance sits alongside the Public Service Commissioner's Standards of Integrity and Conduct, agency codes of conduct, agency policies and processes, and employment obligations.

At work, public servants must meet high standards of integrity and conduct and be politically neutral at all times. This guidance discusses the expectations of integrity and conduct, including political neutrality, for the public sector during the election period.

Read the Public Service Commissioner's [Standards of](#)



[Integrity and Conduct, Code of Conduct for Crown Entity Board Members](#), and [Code of Conduct For Directors of Schedule 4A Companies](#).

Read Chapter 3 of the Cabinet Manual for more information on [integrity and conduct throughout the state sector](#).

Political neutrality obligations

In serving the government of the day, public servants must be politically neutral. Political neutrality helps to manage the potential for conflict between the public sector's policy advice role and the Government's decision-making and advocacy role. The political neutrality convention applies to the public sector at all times, including in relation to elections, by-elections and referendums.

The Public Service Act 2020 includes political neutrality as one of the five Public Service principles. Those chief executives and Boards referred to in [section 12 of the Act](#) are responsible for upholding these principles when carrying out their responsibilities and functions. The Public Service Commissioner, as Head of Service, provides leadership of the Public Service, including of its agencies and workforce (see [section 43 of the Act](#)).

While public servants have the same rights of political expression as other members of the public, public

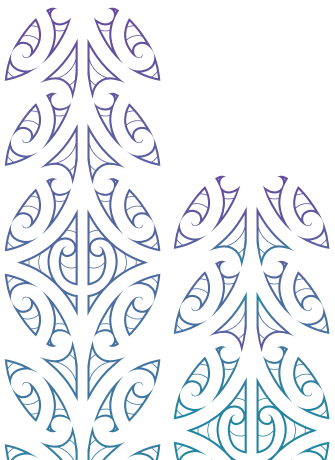
servants must respect other people's rights and interests in the workplace, and avoid behaving in a way that undermines the political neutrality of the public service. Chatting about politics or policy in a private conversation with interested colleagues is acceptable but more overt, politically partisan, conduct may not be. For example, it is not appropriate to:

- wear political party advertising on a t-shirt in the workplace
- campaign for a political party or a candidate in the workplace
- provide work contact details to political parties
- engage with political parties while at work.

Acting responsibly means that public servants should advise their manager if they receive emails from political parties at work, and will not respond to or forward emails from political parties to other public servants or agencies.

Public servants must treat everyone, including political parties, fairly and equally and avoid the perception of discrimination based on their political views or affiliations.

Public funds and publicly funded agency resources must not be used for political purposes. For example,



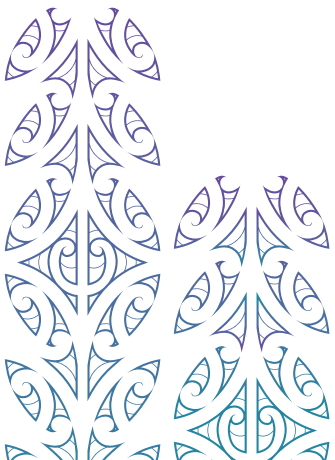
using a work printer to copy political party material is not allowed.

Working in a politically neutral way means that public servants cannot work for, nor service, political entities such as party caucuses and caucus committees as part of their work as government officials. As a government official, they can only attend a caucus meeting of a political party represented in the House at the direction, or with the consent, of the Minister, and with the consent of their chief executive.

Ministerial staff

Like other public servants, ministerial staff must not undertake electioneering work for Ministers during their ordinary work hours or use official resources for political party purposes. Ministerial staff employed by the Department of Internal Affairs are bound by the Code of Conduct for Ministerial staff and are not required to be politically neutral in providing political advice to the Minister. However, Ministerial staff should bear in mind that they are likely to be working alongside public servants who are seconded to Minister's offices who are subject to the Public Service Commissioner's Standards of Integrity and Conduct which requires them to be politically neutral.

Read the Public Service Commissioner's [Code of Conduct for Ministerial staff](#).



3

Mō te kaimahi tari kāwanatanga i waho atu i ngā hāora mahi

Public servants outside work

Rights, freedoms and responsibilities

Public servants have the same rights as other New Zealanders. Like other New Zealanders, public servants are strongly supportive of good government and care about the issues affecting New Zealanders.

Political interests

Many public servants have their own political views and support particular political parties. Being politically neutral at work does not generally stop public servants from being politically active outside work, such as attending political party meetings or delivering pamphlets.

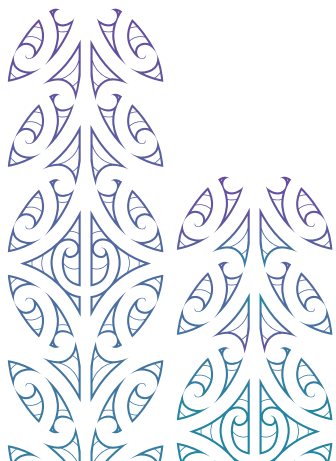
In general, there is nothing wrong in having interests or activities outside work that may create a conflict with your agency role, so long as they are identified and appropriately managed. However, there may be circumstances where it is difficult to reconcile personal interests with performing a public sector role. Te Kawa Mataaho Public Service Commission can provide assistance in these situations.

Public servants who express their political views in their own time are unlikely to breach their employer's political neutrality obligations provided that they do not identify their opinions with their agency; give the impression they are speaking on behalf of their agency; or use confidential government information for political purposes.

Public servants will need to exercise careful judgement when considering political involvement if they:

- are very senior
- have regular, direct contact with Ministers
- represent their agency
- work in a Minister's office or provide advice to Ministers on an issue that is the subject of political activity.

Their profile and engagement with Ministers and/or the public make it more likely that their political activity could affect public confidence in the political neutrality of their agency, or the confidence of Ministers.



Te Kawa Mataaho Public Service Commission can provide assistance in these situations.

There are no hard and fast rules around the level of political activity that public servants can engage in outside work.

There are some things to think about in engaging in any political activity outside work that might impact your role as a public servant. Whether a particular political interest or activity might impact on a work role, and whether it can be managed, may depend on the:

- seniority of the role
- nature of the role
- scope and scale of the political activity

The seniority of the role

Working in the public sector is a privilege, involving ready access to government information, status and influence. The more senior the role within the structure of the agency, the greater that person's profile, influence, and proximity to Ministers and government is likely to be. The greater the seniority and influence, the less appropriate political activity outside work may be. These public servants must take particular care about engaging in political activity outside work and carefully consider public perceptions.

The nature of the role

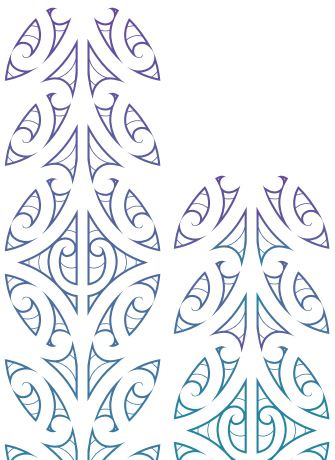
Any potential for overlap or conflict will depend on what the role involves or the requirements of the role. Roles that are more likely to be impacted by a public servant's political activity outside work include those that involve regular, direct contact with Ministers; communication on behalf of the agency; or advising Ministers on politically topical issues.

The scope and scale of the political activity

While voting in the election is always an acceptable political activity and is encouraged, political expression that involves breaching the law or a code of conduct is never acceptable. For example, the unauthorised disclosure of government information or the misuse of government resources for political purposes is not acceptable.

Public servants should consider whether the scope and scale of the political activity could interfere with their work duties or the political neutrality of the public sector. Questions that could be asked are whether the political activity:

- has a negative impact on the confidence of Ministers and the public in the political neutrality of the public sector



- interferes with duties or workplace relationships
- involves a serious breach of the Standards of Integrity and Conduct or criminal conduct, for example, involves the unauthorised release of data, other government information, private or personal information, government policy or financial information
- brings into question someone's ability to perform their role in the eyes of the public
- causes some other kind of harm to the legitimate interests of the public sector.

Managing significant political interests

Where public servants have significant political interests, agreements between the agency and those public servants can manage and mitigate the political neutrality risks to their role and the agency, while supporting them to exercise their individual political rights outside work. What is 'significant' will depend on a number of factors, such as the scope and scale of the political activity, and the seniority and nature of the person's role.

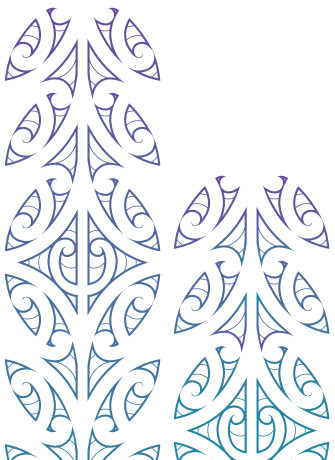
Discussion between public servants with significant political interests and their manager about how the political activity may impact their work can help get

agreement and resolve any uncertainties. These discussions should occur as early as possible, and be recorded in a management plan, particularly for senior public servants and those who interact regularly with Ministers.

Generally, there is nothing wrong in having interests or activities outside work that may create a conflict with a work role, so long as actual and perceived conflicts are identified and either avoided or actively managed. A good management plan helps manage political interests that may affect a public servant's work role, and for election candidates, a good plan will help smooth a possible return to work post-election.

A good management plan will record the public servant and agency's agreement as to how interests will be safely and transparently managed. It will support and protect the rights of the public servants, while safeguarding the political neutrality of the agency. Things to think about in creating a plan include:

- the work role and seniority
- interaction with Ministers
- access to information, including policy information
- if applicable, whether the role will be affected by standing for Parliament.



Agencies will have their own policies and processes for dealing with interests. Plans can be recorded in different ways and with varying levels of formality.

Read the Office of the Auditor General's guidance on [managing conflicts of interest](#).

Read the Public Service Commissioner's [Conflict of Interest Model Standards](#).

Public servants standing for Parliament

Public servants have the same right to stand for election to Parliament as other New Zealanders. This right sits alongside the responsibility to act in accordance with the Standards of Integrity and Conduct and to maintain the politically neutral reputation of the public sector.

Read the Electoral Commission's [advice for candidates standing for election](#).

If standing for election, public servants must separate their political candidacy from their work role and their agency. They should also take care not to appear to use their employment to political advantage or act in a way that is inconsistent with the Standards of Integrity and Conduct. Examples include:

- linking their campaign to their work role
- appearing to use confidential government information or advice

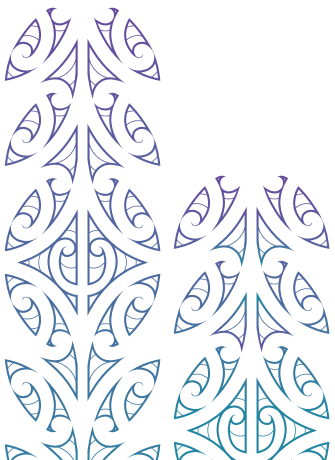
- acting in other ways that may detrimentally affect the politically neutral reputation of the public sector.

It is important to notify the employer of the candidacy and put an agreed management plan in place early on, as outlined in the section: Managing significant political interests.

Taking leave and returning to work

Public servants should inform their chief executive as soon as they are confirmed as an election candidate.

The Electoral Act 1993 sets out requirements relating to the candidacy and election of some 'State servants' (as defined in [section 52](#)) State servants covered by these provisions (including those employed by Public Service departments and departmental agencies, the New Zealand Police, the New Zealand Defence Force, the Education Service (as defined in [section 10\(7\)](#) of the Education and Training Act 2020) and the Cook Islands and Western Samoan Public Service) are required to take leave of absence from Nomination Day until the first working day after election day. Nomination Day is the last day a person can be nominated to stand for election. The Electoral Commission has announced that for the general election this year, Nomination Day will be Friday 15 September, 2023.



In some cases, it may be necessary for the period of leave to commence before Nomination Day (Electoral Act 1993 [section 52\(4\)](#)). This can happen when the employer decides, after consulting the employee, that the employee's candidacy materially affects their ability to carry out their duties as a State servant satisfactorily, or to be seen as independent in performing their duties.

During the period of leave, the State servant should not carry out any official duties, and is not entitled to any salary or other remuneration except paid annual leave.

There is no statutory requirement to take leave of absence for public servants who are employed in Crown entities and other government organisations. However, in discussion with their employer, they also need to consider the impact of their candidacy on their role and on Ministers' and the public's confidence in the agency, and whether it would be appropriate to take leave from their role at some point during the campaign period.

The Electoral Act 1993 [section 53\(2\)](#) provides that State servants who are elected to Parliament automatically vacate their role. Unelected candidates can return to work the first working day after polling day. However, in rare cases, a change of duties or role may be appropriate.

Board members standing for Parliament

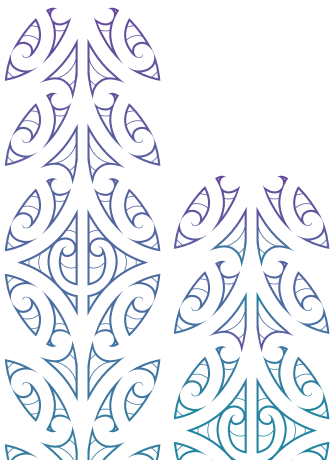
While board members are encouraged to participate in the democratic process as individuals, board members are expected to avoid perceived or actual conflicts of interest, including any that relate to political activity.

The Public Service Commissioner's Codes of Conduct for [Crown Entity Board Members](#) and [Directors of Schedule 4A Companies](#) include responsibilities to act in a politically neutral manner and to identify and manage conflicts of interest.

Read [Ministers' expectations of Board members standing for Parliament](#).

Board members who are thinking of standing for election are advised to discuss it with their Chair and monitoring department.

The Crown Entities Act 2004 (CE Act) explicitly addresses the effects of being elected on board roles. Members of Parliament are disqualified from being board members of Crown entity companies ([section 89 CE Act](#)) while appointed board members of statutory Crown entities (that is, Crown agents, autonomous Crown entities and independent Crown entities) immediately cease to hold office upon becoming Members of Parliament ([section 45 CE Act](#)). However, elected members (that is, not appointed) of statutory



Crown entities may retain their board positions while concurrently serving as Members of Parliament ([section 30\(3\) CE Act](#)).

In addition, [section 97 of the CE Act](#) provides that a Crown entity parent company must ensure, to the extent that it is reasonably able to do so, that none of its Crown entity subsidiaries has a Member of Parliament as a member.

While conflicts arising from personal political interests may continue post-election and must be managed, in general, a board member who has stood down from their board role to campaign and is not elected can return to their board role.

Media, including social media

Public servants are free to talk to the media and use social media in their private lives, in the same way as other citizens. The Standards of Integrity and Conduct, political neutrality obligations and agency policies apply to all media communications outside work as with other forms of communication. There must be a clear separation between the work role of public servants and their personal use of media. For example, a public servant could appear in a TV interview in their capacity as a charity volunteer, where it is clear that they are not representing a public sector agency.

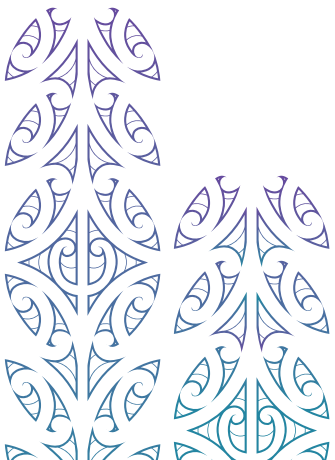
While some aspects of social or other media may be outside a user's control, public servants are expected to take reasonable care that their media communications do not undermine the political neutrality of the public sector. Maintaining political neutrality in a work role means separating personal political comments in any media, including on social media, from work life. For example, public servants must not link their personal political comments to their LinkedIn work profile.

As with other types of behaviour, private activity in the media, including social media use, will only be a concern to an employer if it negatively impacts on the employee's role as a public servant. Trust and confidence will be affected by media use that involves unlawful conduct, a breach of the code of conduct or that otherwise brings the employer into disrepute.

Using social media in personal life

Private comments can become public on social media, so it always pays to think before posting material online and to exercise good judgement when posting.

It is never a good idea to air workplace grievances online or be disrespectful of others when using social media. If someone is unsure about what is acceptable, they may want to talk to their manager or an HR advisor at their workplace.

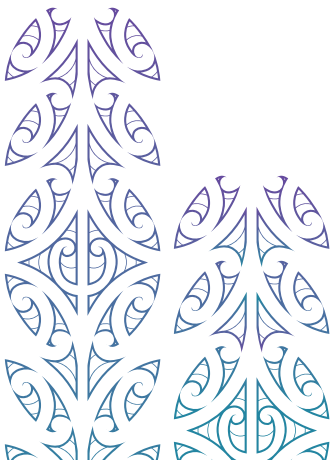


Social media posts are covered by the Electoral Act 1993 rules on political advertising. Political comments made by individuals who express their views on their own website or through social media are exempt from the rules, as long as they do not make or receive payment in relation to the publication of those views.

However, as all political advertising is prohibited on election day; even individuals covered by this exemption cannot post new political messages on election day.

For public servants who operate their own websites, managing social media risks may involve, for example, moderating content on a site, or not responding to posts.

Read the Public Service Commission's [guidance for public servants' personal use of social media.](#)



4

Ngā kawenga o ngā tari o te kāwanatanga

Responsibilities of public sector agencies

The role of the public sector

The public sector serves the government of the day and the public of New Zealand. The public sector is responsible for advising on and implementing the Government's policy decisions and delivering public services.

Public sector policy and processes

A positive, open and politically neutral working environment provides a foundation for supporting public servants and respecting their individual rights and freedoms.

Public sector chief executives and board chairs are responsible for the integrity and conduct of their agencies and maintaining the agency's political neutrality. This includes during the election period.

Policies and processes play an important role in informing public servants about what they need to know at work, including how to conduct themselves appropriately. Policies and processes need to be consistent with this guidance, including respecting

individual rights and freedoms.

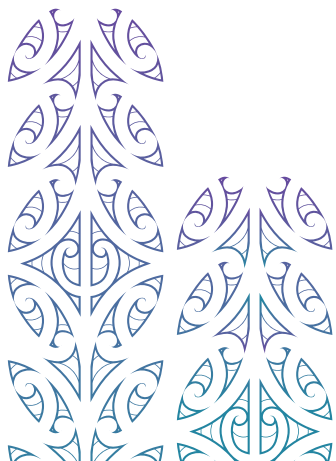
Useful and relevant policies will cover the significant issues that can come up for public servants during the election period. This includes social media use, dealing with government information, advising the Minister appropriately, and notifying and managing outside work interests. It is important that these policies and processes are regularly communicated across the agency.

Information requests and release of government information

Agencies and their Ministers are obliged to release government information during the election period in the normal way. Information can be released proactively or in response to a request under the Official Information Act 1982 (OIA).

Official information request responses

The timely release of official information requested by the public is important in supporting our democratic processes. It is particularly important



during the election period given the importance of a well-informed electorate.

As is always the case, public servants must be even-handed in responding to information requests and treat all requesters equally. The only reasons for withholding information are those specified in the OIA. Agencies need to be attentive and ensure the rules are consistently applied.

Public servants must not become involved in assessing the political consequences of releasing information. Where an agency considers their Minister may have an accountability interest in the requested information, then it may be appropriate to notify the Minister of the agency's decision on the request. However, this notification should not produce delay in the agency responding to the request.

Agencies may need to consult their Minister on some OIA requests. Whether consultation is required must be assessed on a case-by-case basis. Consultation may be appropriate when:

- the Minister supplied the information or it was generated on behalf of the Minister
- it relates to the Minister's functions or activities
- release could affect the Minister's functions, activities, or legitimate interests.

The final decision on a request rests with the agency.

Agencies are obliged to transfer an OIA request to their Minister's office when the request is more closely connected to the Minister's functions than the agency's, regardless of whether the agency also holds the information.

Proactive release of Cabinet papers

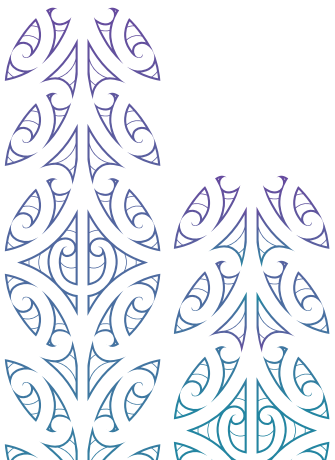
The Cabinet-mandated policy is for Ministers to proactively release all Cabinet and Cabinet committee papers and minutes within 30 business days of final decisions being taken by Cabinet, unless there is good reason either not to publish all or part of the material, or to delay the release beyond 30 business days.

The proactive release of Cabinet papers continues as normal. Agencies should not become involved in assessing the political consequences of releasing information.

Information requests from Caucuses and Members of Parliament (MPs)

Caucuses are political entities and cannot direct the public sector to provide information; only the Minister can.

Agencies may get information requests from MPs. MPs have the same rights as other New Zealanders



in accessing information, but no additional rights.

See Case study scenario 3: Public sector agency receives an information request from its Minister.

Further guidance about information requests

For further guidance about responding to requests for information from Ministers and political parties, see Section 7: Government processes before, during and after an election.

Read the Public Service Commission's guidance on [Minister and agency official information requests](#).

Read the Cabinet Manual for more information on [OIA releases](#).

Read the Ombudsman's guidance on [release of information for Ministers and agencies](#) and [official information requests during an election period FAQs](#).

Business planning and decisions

In an election year, agencies have particular responsibilities for supporting the incumbent government's priorities, the continuity of government business and a smooth government transition, in addition to maintaining political neutrality.

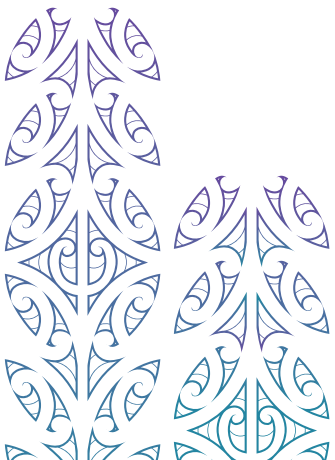
As soon as the election is announced, agencies must make decisions about business that must be progressed

before the election and the timeframes for any related Cabinet papers. Agencies must work to ensure that all pressing business matters are dealt with well before the election and that all other agency business continues as much as possible, within the constitutional constraints, over the election period.

It is important that agencies make their significant business decisions in time to include these in the Pre-Election Economic and Fiscal Update (PREFU). The PREFU must be published between 20 and 30 working days before the election date.

Other matters to consider include:

- regulatory or annual processes that require ministerial decision or Parliamentary action
- processes with statutory deadlines
- the passage of legislation
- preparing the first draft of the briefing for the incoming Minister (BIM)
- managing any significant appointments to avoid the pre-election period
- advertising and communications that could look like public funding of political messages: read Cabinet Office Circular CO(23)1: [Government Decisions and Actions in the Pre-election Period](#).



The Pre-Election Economic and Fiscal Update

Twice a year the Treasury publishes forecasts for the Government's finances and the economy, called Economic and Fiscal Updates (EFU). The EFU provides a detailed statement of the Government's financial position, including updated economic and fiscal forecasts, analysis of the fiscal position and a summary of specific fiscal risks.

In an election year, a Pre-election Economic and Fiscal Update (PREFU) is published under the Public Finance Act 1989. The PREFU incorporates the fiscal and economic implications of both government decisions and global factors as at the date of publication, and as communicated to the Treasury by the Minister of Finance, in accordance with the Public Finance Act 1989.

It also considers other economic and fiscal information available to the Treasury. Treasury ensures that the economic and fiscal costings provided to Ministers for decision-making are as complete and reliable as possible. Chief executives and chief financial officers must officially confirm they have notified the Treasury of all matters that could affect the fiscal and economic outlook.

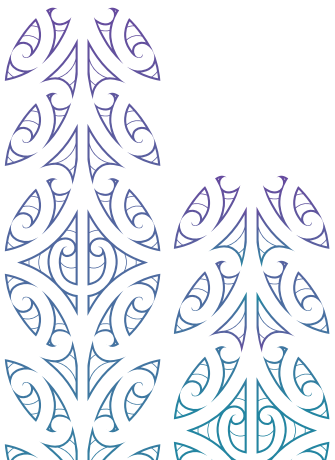
Managing MPs' visits

MPs may visit agencies from time to time as the representative of a constituent in their electorate. During the pre-election period, MPs may request visits to agency premises for other reasons. This may be in their capacity as the Minister, local MP, party leader or as a candidate.

MPs may also make requests for public servants to attend a political event to provide their expertise.

While it is appropriate to refer an MP's request to visit an agency to the Minister, the agency's chief executive must consider any risks to political neutrality. They can decline a request if the proposed visit seems likely to breach political neutrality or if a request is otherwise considered inappropriate for the agency. Factors that the chief executive may take into account are:

- the capacity or role in which the MP is acting (for example, as the Minister or an election candidate)
- the nature and purpose of the requested visit (for example, to open a new building or for campaigning purposes)
- the presence of any government representatives or political party representatives
- the timing of the visit.



For example, it would be appropriate for a school to permit a MP to speak at a school event where it is clear the MP is participating as the local member. However, it would not be appropriate for a school event to be used as a party political platform by the MP.

To help manage the risk of an MP visit being seen as electioneering, an agency could take practical steps such as deferring the publishing of any photos of the visit on its social media until post-election. The agency could also ask the MP or party in advance whether they intend to film, photograph, or record the visit and, if so, how that material will be used to help the agency assess whether the visit or publicity of the visit could call into question the political neutrality of the agency.

For further guidance on programme launches and events involving Ministers and MPs, see Section 5: Public sector advertising, publicity and media.

Using public funds and resources

It is never appropriate to use an agency's public funds or publicly funded resources for political purposes. For example, using an agency's vehicle to transport Ministers to a political event, or using agency funds to cater for an event the Minister is hosting for party colleagues is not appropriate.

While agency premises should never be used to

host political activity, the Electoral Act 1993 allows an exception to this: it allows schools to be used by political parties for election meetings. Another exception is that, like the public, political parties can hire premises that are public venues, on normal commercial terms.

Non-agency material

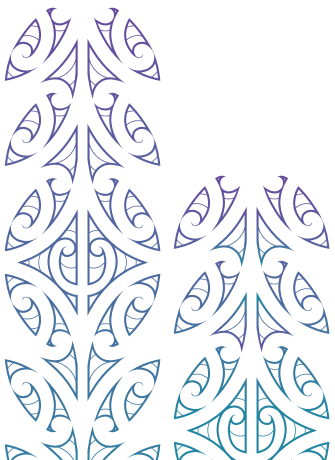
In some workplaces, it may be permissible for public servants to share non-agency material with their colleagues on a staff noticeboard or similar. Agencies must take care to ensure that any material hosted on agency's premises is not classified as election advertising under the Electoral Act 1993.

Internal communications

Being politically neutral also applies to communications within an agency. For example, political material, whether it is for the general election or preferences in referendum voting, must not be displayed on agency premises, vehicles, websites, or emailed from the agency.

Union activity

Unions can conduct their activities at workplaces and can share their approach to party policies with their members. Union material must not be displayed in any areas of the agency that are accessible to the public.



5

Te pānuitanga, te whakaaturanga me te pāpāho

Public sector advertising, publicity and the media

Government advertising

Government advertising is when public funds are used to publicise a government policy, product, service or activity.

Successive governments have chosen to exercise voluntary restraint in relation to some government advertising in the pre-election period.

During the pre-election period, public servants must be alert to the heightened political sensitivity around government advertising and any perception that government funds are being used to pay for publicity for party political purposes.

Advertising and publicity campaigns

The *Guidelines for Government Advertising* apply to both Ministers' and the public sector's public communications, including:

- publicity for ministerial or official announcements
- information about services
- paid publicity campaigns or launches

- information about consultations.

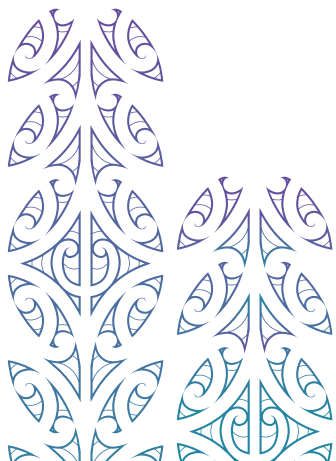
Public funds must never be used for party political purposes in government communications. All government communications material, including advertising and publicity campaigns, must:

- be accurate, factual, truthful, fair, honest and impartial
- use unbiased and objective language that is free from partisan promotion of government policy or political argument
- be lawful and proper

Additionally, such material must deal only with matters:

- that the Government has direct responsibility for
- where there is an identified and justifiable public information need

Justifiable information needs fall into four broad categories: informing the public about government policies, informing the public about government services, advising the public of their entitlements or



responsibilities, or encouraging the public to adopt behaviour that is in the public interest.

Public sector agencies should consider the purpose, timing and audience of any advertising of new or existing government services, policies and entitlements.

Deferring some advertising in the pre-election period may sometimes be appropriate. However, the risk that public funds may appear to be used to fund political advertising has to be considered in the light of continuing government business as usual.

Examples of business-as-usual activity includes publicity and advertising campaigns that inform people about government services or that set out the public's entitlements and responsibilities, such as:

- road safety campaigns
- providing public health information
- advising the public of access to services and entitlements, or obligations where these are official implemented government policy
- promoting consumption of New Zealand export goods and services offshore.

On the other hand, advertising a service or entitlement in a manner that lacks detail or uses emotive language or rhetoric is unlikely to meet the standard of fair,

accurate and impartial advertising.

Particular care is needed around advertising that presents a vision for New Zealand's future, where this could be seen as publicity for party political purposes. For example, emotive slogans such as "rebuilding New Zealand", "Keep New Zealand working", or "the kind of country we are" are unlikely to be appropriate government advertising messages.

Care is also needed around the form and style of advertising during the pre-election period, to avoid any confusion with party political advertising. For example, an advertising campaign that uses colours and images that closely resemble those used by political parties should be avoided.

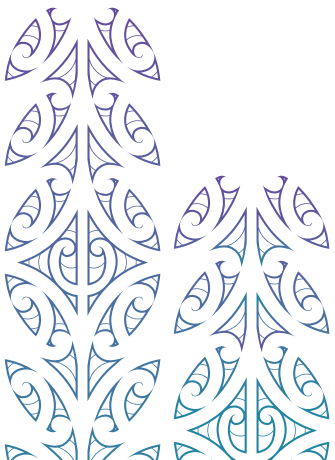
Read the [Guidelines for Government Advertising](#).

See Case study scenario 1: Public sector agency advertising a future vision for New Zealand.

See Case study scenario 2: Advertising by a public sector agency of new products and services.

See Case study scenario 6: Social media campaign to publicise community services.

See Case study scenario 8: Publicity of future services and benefits.



Government consultation and surveys

The *Guidelines for Government Advertising* also apply to discussion and consultative documents and materials. Care should be taken to ensure the content and presentation of consultation material is accurate, strictly impartial, factual and free from partisan promotion of government policy and political argument. Targeted consultation with those affected is likely to be more appropriate than general consultation with the wider public.

For example, the following consultation activities will generally be appropriate:

- agency consultation with key stakeholders around proposed operational improvements, to inform advice to Cabinet
- informal engagement by an agency around regulatory frameworks, to inform briefings to incoming Ministers (BIMs)
- agency workshops with sector representatives to discuss options for reform.

Surveys can continue to be commissioned by agencies, provided that these are designed and run in a way that is politically neutral.

Read the Public Service Commission's [advice on the](#)

[political neutrality of surveys.](#)

See Case study scenario 9: Consultation on proposed government policy that is politically controversial.

Media comment

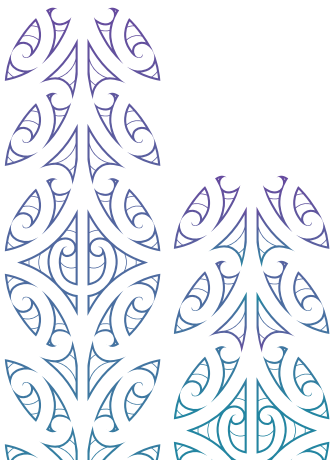
When corresponding with the media, agencies must take care to ensure that:

- communications material is factual and politically neutral
- the Minister is kept informed
- information and advice requests are handled promptly and by the most appropriate person, entity, or Minister.

Public servants need to identify whether issues are primarily political or operational, and whether they are handled by the Minister or by the agency.

Political matters relate to the functions of the Minister. Ministers are responsible for determining and promoting policy, defending policy decisions, and answering in the House on both policy and operational matters. Chief executives are responsible for operational matters. Ministers are generally not involved in departments' day-to-day operations.

Requests for information (separate to requests for



comment or a response to claims and/or developing issues) are requests for information as defined in the OIA. Media teams need to have a working knowledge of the provisions of the OIA, including the basic grounds for withholding information or refusing requests.

Requests for publicly available information or information that is easily on hand should be actioned without delay, typically such requests should not be treated as a 'formal OIA' which needs to go through a particular process.

See Case study scenario 7: Correction of misinformation.

Agencies with an independent role

Agencies and staff with a statutorily independent role will often need to continue to perform that role through the pre-election and post-election periods. For example, some agencies have an advocacy role under their legislation to promote particular rights or issues. These agencies should undertake their role in a way that does not involve them entering the political debate. For example, care is needed around publicity that could be perceived to align with the policies of political parties.

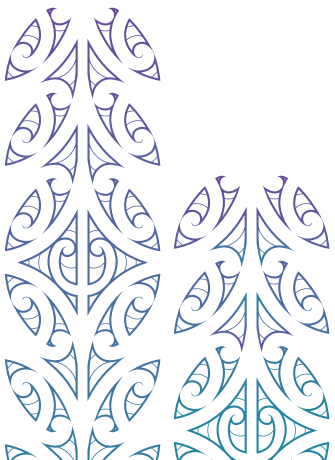
The following steps can help avoid the risk of an agency's impartiality and neutrality being questioned:

- when corresponding with the media, agencies should ensure their comments focus on their statutory role (such as promoting human rights or climate action), rather than advocacy for political parties' policies or encouraging any political party to adopt the agency's policy as its own
- personal opinions can be expressed but need to be very clear that any comments are not made on behalf of the agency or government
- some policy proposals of the agency may be better pursued during the formal budget process and could be presented in a briefing to the incoming Minister post-election.

See Case study scenario 4: Staff commenting in the media on the current government's performance.

Using social media in an official capacity

Public servants using social media on behalf of an agency must follow the rules and policies that apply. The *Guidelines for Government Advertising* apply to all agency communications where public funds are spent, and that could include social media. Agencies will have their own social media policy. Public servants



must be specifically authorised by their agency to use social media on the agency's behalf. In communicating on social media, it is important to be clear about the agency's role and purpose.

Read the Public Service Commission's [guidance for public servants' official use of social media](#).

See Case study scenario 6: Social media campaign to publicise community services.

Programme launches and events

The nature and timing of programme launches and events in the pre-election period, especially those that are high profile or involve Ministers or MPs, must be carefully considered and managed to ensure the public sector remains politically neutral. This may require an assessment of the speakers, the topics, the audience, and the nature and location of the venue.

Agencies can take steps to reduce the risk that launches or events may somehow call into question the political impartiality of the agency. It is important to ensure the event's supporting material is strictly impartial and factual and the agency does not become drawn into any political aspects of an event.

In some cases, it may be appropriate to defer high-profile events involving the Minister until post-election.

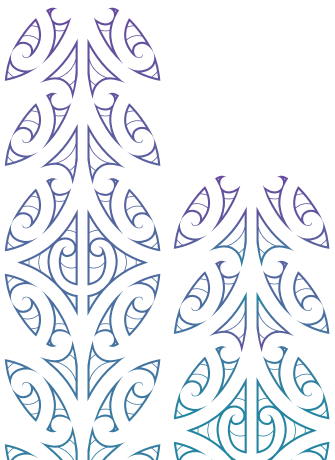
If managed carefully, the following examples may be appropriate during the pre-election period – but will always depend on the specific circumstances:

- the release by an agency of a technical report on its website, accompanied by a press release by the responsible Minister
- a media event for a ministerial announcement to recognise the completion of a major project, involving Ministers, public servants and community representatives
- an agency chief executive attending an international meeting of Ministers on behalf of the relevant public sector agency (not as the Minister's representative).

Public servants appearing in publicity material

Public servants need to be, and be seen to be, politically neutral in their official capacity. Public servants can appear in publicity material of the Government conducting its business, provided they are not impliedly endorsing a political party.

It is appropriate for an agency or Minister to publish material of this nature in order to communicate factual and impartial information about the activities of the public sector and Ministers in their official capacities.



For example:

- video footage could show the work done by public servants in carrying out a government policy
- public servants should usually be able to appear in the background of video footage of a Minister
- public servants can be filmed on their work premises undertaking their normal business, provided this is done by media, ministerial staff or the agency.

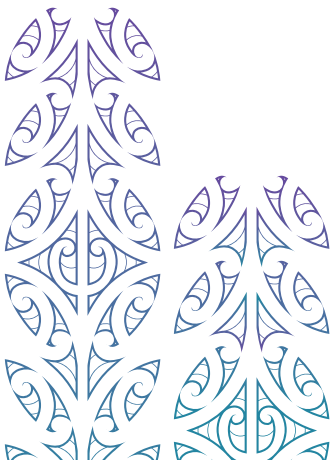
However, it would not be appropriate for a public servant to agree to feature in party political material in their official capacity where this implies endorsement by the public servant of the political party. To do so would compromise their political neutrality and by implication that of the public sector as a whole. This will require a careful assessment of factors such as any political branding, whether the public servant has a high public profile, and whether the material is already public.

See Case study scenario 5: Staff appearing in publicity material that involves politicians.

Election day advertising

Political advertising is banned on election day. The Electoral Act 1993 prohibits any activity on election day that may interfere with or influence voters, including

marches, speeches or public statements. Public servants must not post political messages on social media, including messages about referendum options, or share political content, if it breaches the ban on political advertising.



6

Ngā kaimahi tari kāwanatanga me te Pōti Nui

The public sector and the general election

The three election phases

A general election is held at least every three years.

There are three phases of an election cycle:

- the pre-election period
- election day
- the post-election period, during which time there are negotiations and the new government is formed. This period ends when the new government is appointed.

Although a general election is usually held every three years, the Prime Minister can announce an election date any time during a three-year term. Generally, an election is announced well in advance of the election date. However, if there is a snap election, the election is called earlier, and comparatively short notice may be given. Much of this guidance concerns the time from the start of the pre-election period until a new government is sworn in.

The pre-election period

Timing of the pre-election period

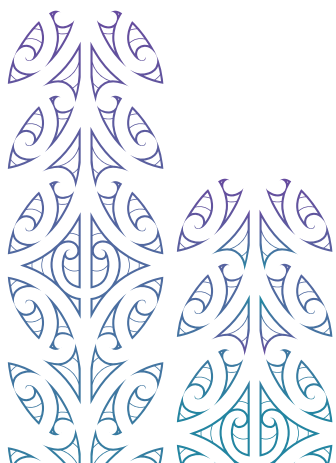
The pre-election period is generally the three months immediately before election day. In 2023, the pre-election period begins on 14 July. During the pre-election period, unless the Government has clearly lost the confidence of the House and is therefore bound by the caretaker convention, it is generally business as usual, subject to any self-imposed restraint that the Government decides on.

There are no special obligations on the public sector from the date when the Prime Minister announces the election date until the pre-election period.

Exercise of voluntary restraint

The Government continues to have full power to make decisions in the pre-election period. However, successive governments have usually chosen to exercise restraint at this time in two areas:

- making significant appointments



- taking action that might result in government advertising campaigns running at the same time as the election campaign.

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

Read the Cabinet Office Circular CO(23)1: [Government Decisions and Actions in the Pre-election Period](#).

Working on government policy

Ministers can continue to commission policy work that goes through the Cabinet and Cabinet Committee decision-making process in the pre-election period. This is referred to as government policy. However, Ministers should not request policy work to support their party political work, for example, to use in election campaign debates.

Public servants who are concerned they are being asked to work on something that is not part of the government policy process, should inform their chief executive.

See Case study scenario 3: Public sector agency receives an information request from its Minister.

Election day

In 2023, the date of the general election is 14 October.

There is a ban on all political advertising, including social media, on election day.

Public servants are strongly encouraged to vote. Public servants can volunteer to work in the election administration by, for example, helping at voting places.

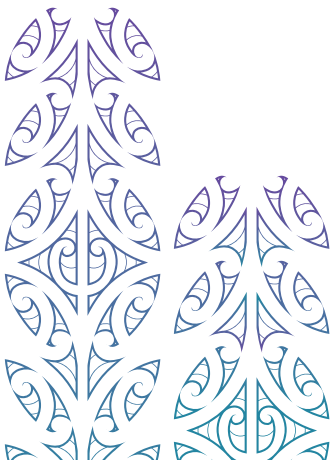
On election night, the Electoral Commission publishes the preliminary results for each party and electorate candidate. The preliminary results give an early indication about where the vote is going before the final count is complete. The chief electoral officer declares the official results up to three weeks after voting closes.

The post-election period

The caretaker convention principles

The post-election period runs from the day after election day until the new government is sworn in. During the post-election period, the caretaker convention applies until the new government is appointed. During this time, all government agencies must apply the caretaker convention principles in conducting agency business.

Read more about the [caretaker convention](#).



When the caretaker convention applies

The caretaker convention applies in two situations:

- in the post-election period before a new government is appointed
- at any time when the Government has lost the confidence of the House, but it is necessary for the Government to remain in office on an interim basis.

While the incumbent government is still the lawful executive authority with all the powers and responsibilities that go with executive office, governments have traditionally constrained their actions when the caretaker convention applies. How much constraint and what processes to follow depends upon whether or not it is clear who will form the next government, and when.

- **If it is clear who will form the next government, but Ministers have not yet been appointed:** The outgoing government should avoid new policy initiatives and must act on the advice of the incoming government on any matter of significance, even if it disagrees.
- **If it is not clear who will form the next government:** In general terms, the normal government business continues but any significant decision-making should be deferred, if possible, until

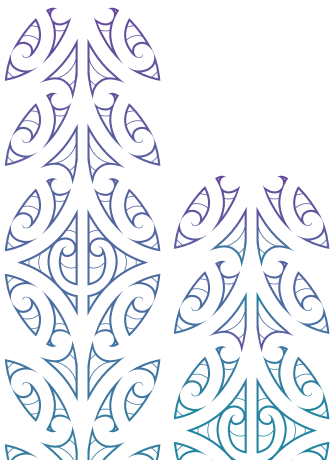
the political situation is resolved. If a deferral is not possible, the matter should be handled by way of a temporary or holding arrangement that does not commit the government in the longer term. If neither deferral nor temporary arrangements are possible, a decision should be made only after consultation with other political parties, to establish whether the proposed action has the support of a majority of the House.

The application of the convention to the wider public sector

The statutory provisions that govern decision-making in Crown entities, state-owned enterprises and other public sector agencies may impose different obligations to those that apply to the central government agencies. However, it is expected that during the caretaker period, all public sector agencies will discuss any issues that have caretaker convention implications with their Minister, and will apply the principles of the caretaker convention to decision-making as far as possible, taking into account their legal obligations, and statutory functions and duties.

Seeking advice on the caretaker convention

Because there are no hard and fast rules in the post-election period, Ministers and public servants must



exercise careful judgement when making decisions.

Ultimately, the Prime Minister determines how a matter should be dealt with during this period. The Prime Minister must also be consulted on all issues that may require consultation with other political parties.

The Secretary of the Cabinet will issue guidance about the application of the caretaker convention following the election, and can provide advice to Ministers and agencies about applying the caretaker convention.

Forming a government

Forming a government is political and is negotiated by politicians. Typically, two or more political parties may negotiate coalition or support agreements so that a government can be formed.

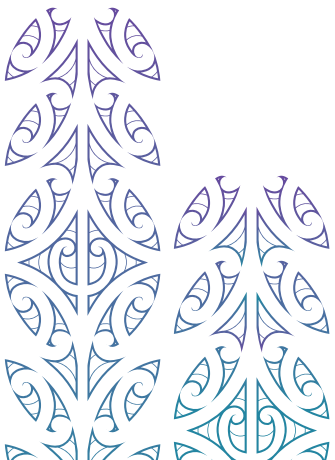
Public servants are not directly involved in political party negotiations.

During negotiations, political parties may ask for information from the public sector. This process is set out in [Schedule 3 of the Public Service Act 2020](#) (see clauses 17–20). The Public Service Commissioner administers the process and is the facilitator and contact between political parties and public sector agencies. For further guidance, see Section 7: Government processes before, during and after an election.

The political parties must make their government formation intentions clear through appropriate public announcements. The Governor-General must ascertain where the confidence of the House lies, based on the parties' public statements, so that a Prime Minister and government can be appointed in accordance with the principles and processes set out in chapter 6 of the Cabinet Manual.

The Clerk of the Executive Council provides impartial support to the Governor-General and liaises with party leaders as required.

Read the Cabinet Manual for [information about government formation](#).



7

Ngā tukanga ā-kāwanatanga mō te pōtitanga

Government processes before, during and after an election

Political parties' access to information, including policy costings

Requests for information before an election

Being politically neutral includes being responsive to information requests by political parties to ensure a well-informed electorate in the pre-election period, so any response should be timely.

Political parties may seek information from public sector agencies through channels such as the Official Information Act 1982. Agencies must respond to all requests as soon as reasonably practicable. Any requests for information beyond what would normally be provided to the public should be referred to the responsible Minister and the response, if any, should be agreed with the Minister.

Any requests for advice or information by the incumbent Ministers must be for the purpose of the Minister's portfolio responsibilities only and not for party political purposes. For example,

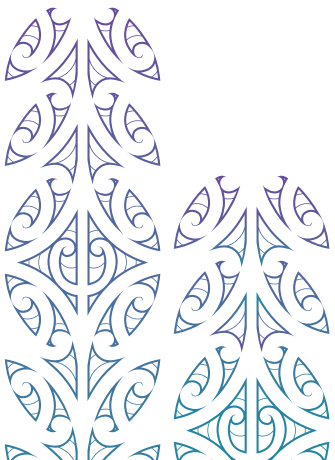
- a request by a Minister for a copy of a presentation held by an agency within the Minister's portfolio is likely to be appropriate, although ultimately this a decision for the chief executive
- a request by a Minister for investment details in each electorate may be more properly requested under the OIA, since it is likely to be for party political purposes, rather than for the Minister's portfolio responsibilities. (Read [Chapter 6 of the Cabinet Manual](#)).

For further guidance, see Section 6: The public sector and the general election.

See Case study scenario 3: Public sector agency receives an information request from its Minister.

During government formation negotiations

Inter-party negotiations to form a government are the business of politicians. However, the negotiating parties may want information and analysis from the public



sector on issues that might form part of any coalition, support or other agreement. This includes policy costings information.

The Public Service Commissioner manages agency involvement in the negotiations to form a government. All requests by political parties for information to support the government formation negotiations must be made to the Public Service Commissioner. The full process is set out in Standards issued by the Public Service Commissioner under Schedule 3 of the Public Service Act 2020.

Read the Public Service Commissioner's [Standards for providing information to political parties during negotiations to form a government](#).

The Public Service Commissioner works closely with the Department of the Prime Minister and Cabinet and The Treasury to coordinate the process.

Using policy costings information

If an agency is requested to provide costings for information and analysis, the costings must be developed in consultation with The Treasury. This process is coordinated by the Public Service Commissioner.

There is a convention between Ministers and the

public sector, that Ministers will not require nor use information on costings that has been provided during government formation in a way that might damage the political neutrality of the public service, and its ability to serve successive governments.

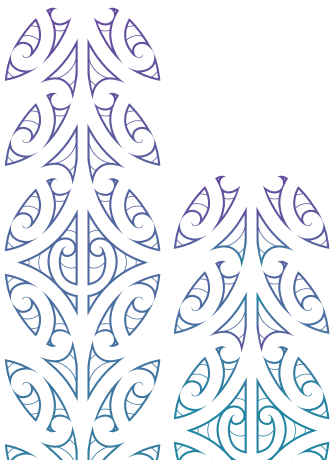
Read The Treasury's guidance on [costing of political party policy costings](#).

After government formation negotiations

When political party negotiations have concluded, but portfolio allocations have not yet been announced, in cases of great urgency chief executives may provide advice to the incoming government through the Prime Minister-designate.

The advice may be given only after the incumbent Prime Minister has given express consent and a process has been agreed with the Public Service Commissioner.

If portfolios have been allocated but the incoming Ministers have not yet been formally appointed, chief executives may, with the approval of the incumbent Prime Minister and with the knowledge of the incumbent Minister and the Public Service Commissioner, brief incoming Ministers on their portfolio responsibilities. The Secretary of the Cabinet will inform chief executives of the Prime Minister's authorisation.



Briefings for incoming Ministers

After Ministers have been formally appointed, departmental chief executives must ensure that, as soon as possible, the Minister receives a Briefing for the Incoming Minister (BIM) for each of their portfolios.

The BIM provides information about:

- the entity
- major outstanding policy issues
- current programmes
- recommendations for draft legislation
- significant appointments or other decisions that are likely to be required in the six months immediately post-election.

The BIM gives a new Minister enough information to meet their initial requirements but is not intended to be a detailed analysis of the portfolio or policy issues. Ministers can call for a fuller briefing on issues of interest and importance to them. This allows the BIM to be wide ranging and cover the breadth of the portfolio, while still being concise.

The BIM is confidential to the Minister and it is up to the Minister to decide if, and when, the BIM is released, subject to the provisions of the OIA. The portfolio

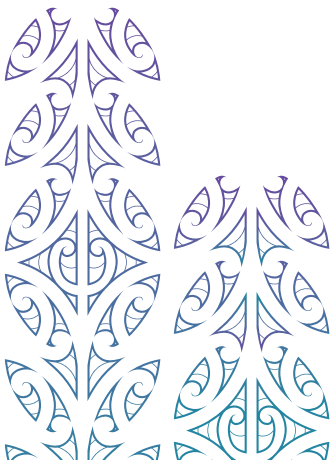
or lead Minister may authorise the agency to provide copies to Associate Ministers.

Agencies may seek advice from the Department of the Prime Minister and Cabinet as they plan and draft their briefings.

Usually, a BIM is drafted before the outcome of a general election is known. Draft BIMs can be reviewed and adjusted once the outcome of the general election is known, taking into account the incoming government's priorities, including coalition or support agreements and the incoming Minister's knowledge of the portfolio and their preferred communication.

Generally, the BIM is provided to Ministers following their appointment ceremony. However, in some circumstances Ministers can be briefed in advance.

Read the Cabinet Manual for [information about briefings for incoming Ministers](#).



Appendix A:

Ngā Horopaki

Case Studies

Introduction to case studies

In this Appendix, we look at some scenarios that might arise for public sector agencies or staff and provide guidance about the matters that should be considered.

Agency case studies

- **Scenario 1:** Public sector agency advertising a future vision for New Zealand
- **Scenario 2:** Advertising by a public sector agency of new products and services
- **Scenario 3:** Public sector agency receives an information request from its Minister

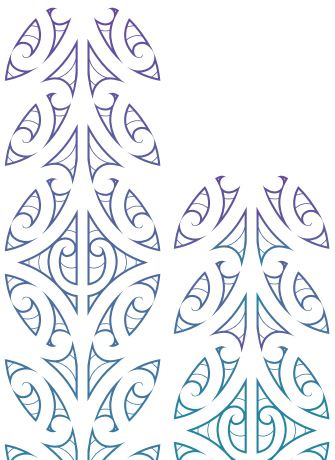
Staff case studies

- **Scenario 4:** Staff commenting in the media on the current government's performance
- **Scenario 5:** Staff appearing in publicity material that involves politicians

Advertising and publicity – short case studies

- **Scenario 6:** Social media campaign to publicise community services
- **Scenario 7:** Correction of misinformation
- **Scenario 8:** Publicity of future services and benefits
- **Scenario 9:** Consultation on proposed government policy that is politically controversial

The scenarios are intended to show the range of situations that can occur and the issues that might need to be considered in assessing their seriousness and deciding how to manage them. They are examples, not rules. In reality, sometimes a small difference in context or detail can make a critical difference. Agencies and staff will have to use their own judgement.



Agency case studies

Scenario 1: Public sector agency advertising a future vision for New Zealand

A public sector agency runs an advertising campaign to promote business opportunities in New Zealand and is aimed at small business owners. The campaign uses the slogan “Making NZ prosperous”.

Outcome

The use of emotive slogans to advertise a vision for New Zealand’s future is unlikely to be appropriate, particularly during the pre-election period. A more appropriate slogan would be “Connecting business owners with investment opportunities and advice”.

Principle that applies

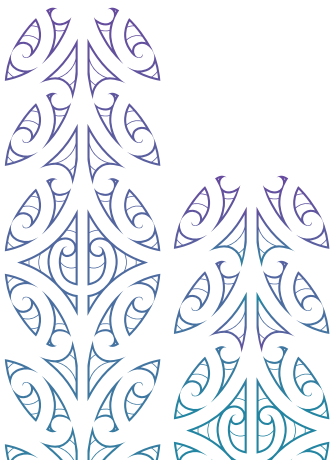
Government advertising should be presented in a matter which is accurate, factual, truthful, fair, honest, impartial, lawful and proper.

Practical guidance

- Government advertising that simply presents a vision for New Zealand’s future is not a matter for the Public Service to determine or to advertise. It is especially problematic in the pre-election period as it could be seen to amount to publicity for party political purposes.

- Government advertising should always have a clear ‘line of sight’ to the business of government. For example, advertising should inform the public about government services or set out the public’s entitlements and responsibilities.
- It is acceptable for an agency to inform the public about government policy. However, advocating for that policy is the Minister’s role, particularly where the policy is a matter of current public debate. Read [Chapter 3 of the Cabinet Manual](#).

For further guidance, see Section 5: Public sector advertising, publicity and the media.



Scenario 2: Advertising by a public sector agency of new products and services

During the pre-election period, an agency launches an advertising campaign to raise awareness of grants and loans available for purchasing electric bikes, vehicles and mobility scooters. The campaign forms part of New Zealand's environmental strategy.

Outcome

Generally, advertising of this nature will be appropriate where it is addressing an identified and justifiable need for information by the target audience at this time, and the content meets the standards expected of government advertising.

Principle that applies

Government advertising may inform the public of government policies, services available to them, and any entitlements or responsibilities. These may be proposed, new, revised or existing.

Practical guidance

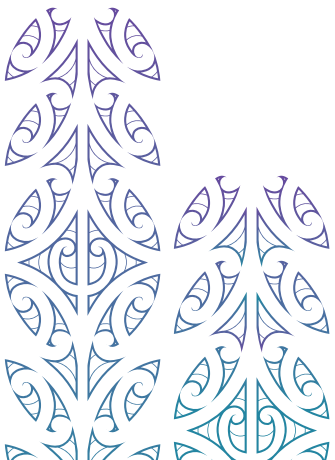
During the pre-election period, there is a heightened risk of a perception that public funds are being used to finance publicity for party political purposes. It may be prudent to run advertising outside this pre-election period, either by delaying or bringing forward the advertising, unless there is an identified and justifiable

need for the information during this period.

Government advertising must meet the following standards:

- deal only with matters that the Government has direct responsibility for
- be accurate, factual, truthful, fair, honest, and impartial
- use unbiased and objective language that is free from partisan promotion of government policy or political argument
- be lawful and proper, and
- be undertaken only where there is an identified and justifiable need for the information.

For further guidance, see Section 5: Public sector advertising, publicity and the media.



Scenario 3: Public sector agency receives an information request from its Minister

An agency receives a request from its Minister – who is responsible for trees – for information about the number of trees planted over the past 10 years in the Minister’s electorate. However, the agency only holds information about trees in each region, and does not hold information about trees in each electorate.

Outcome

In this case, it is unclear if the information is needed for the Minister’s portfolio responsibilities. The agency also does not hold the information broken down in the way requested and has no need to create this information. As such, the agency should contact the Minister’s office to clarify the request.

Principles that apply

The Cabinet Manual makes it clear that, before and after an election, the incumbent Minister is responsible for ensuring that any requests for advice or information from public sector agencies are for the purposes of the Minister’s portfolio responsibilities and not for party political purposes.

While agencies must support the work of the government, the political neutrality of the Public Service must be protected throughout the election period in providing that support.

Public sector agencies and public servants must not use official resources for political party purposes and must not undertake electioneering work for Ministers.

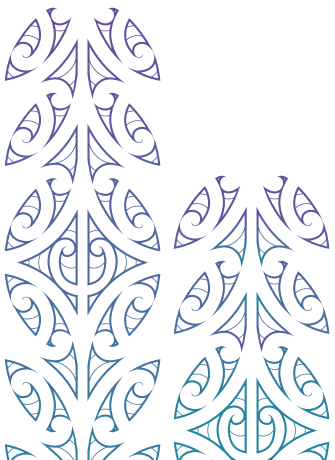
Practical guidance

Agencies may need to clarify an information request or seek more details from the Minister’s office, in order to determine whether the information being requested is held by the agency, and whether it is for the purposes of the Minister’s portfolio responsibilities or for party political purposes.

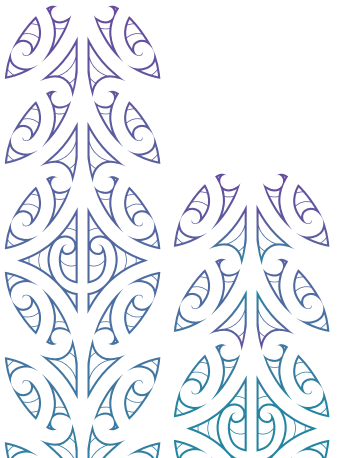
If it is for the Minister’s portfolio responsibilities, then the agency can provide the information or advice requested.

If it is for party political purposes then the request should be made to the agency by the Minister and dealt with under the Official Information Act 1982.

For further guidance see Section 5: Public sector



advertising, publicity and the media; Section 6: the Public sector and the general election; and Section 7: Government processes before, during and after an election



Staff case studies

Scenario 4: Staff commenting in the media on the current government's performance

Shortly before the election, a very senior staff member of an independent Crown entity writes an opinion editorial about the performance of the government during the previous 12 months. This is published on a news website.

Outcome

It is inappropriate for a public agency or for very senior staff to make political comments on the performance of the government, even where the agency has a statutory role to advocate for certain issues. The staff member should ensure any comments or advocacy focuses on the particular issues or rights for which they have a statutory role.

Principle that applies

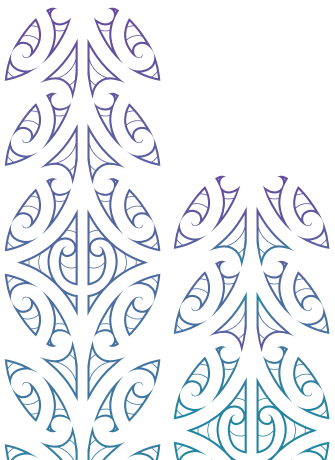
Publicly commenting on the performance of the current government during the pre-election period is likely to be seen as political comment. This is potentially damaging to the relationship of trust and confidence between the public sector agency and the government, whether that is the current or a new government.

Practical guidance

Regardless of whether comments are favourable or unfavourable, maintaining political neutrality in serving the government of the day is important so that the public sector can serve both current and any future governments equally effectively.

Public servants who are very senior, have regular, direct contact with Ministers, represent their agency and provide advice to Ministers on an issue that is the subject of political activity need to exercise careful judgement when considering political involvement. Their profile and engagement with Ministers and the public, make it more likely that their political activity could affect public confidence, or the confidence of Ministers, in the political neutrality of their agency.

Whether a particular political interest or activity might impact on a work role or can be managed, depends on

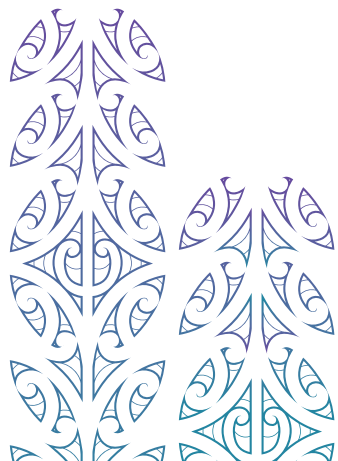


the seniority of the role; the nature of the role; and the scope and scale of the political activity.

When corresponding with the media, agencies should ensure their comments focus on their statutory role (such as promoting human rights or climate action), rather than advocacy for political parties' policies or encouraging any political party to adopt the agency's policy as its own.

Personal opinions can be expressed but need to be very clear that any comments are not made on behalf of the agency or government.

For further guidance, see Section 5: Public sector advertising, publicity and the media.



Scenario 5: Public servants appearing in publicity material that involves politicians

A high-profile public sector manager is asked to be filmed alongside the Minister, as part of a promotional video of the Minister discussing the agency's work. The video is only published on the social media pages of the political party.

Outcome 1

During the pre-election period, the appearance of the public sector manager in a video that is designed to be published on a political party's social media platform is not appropriate. There is a high risk that the public sector manager will be perceived as endorsing a political party.

Outcome 2

Had the video been produced by the agency and published on the agency's website then that is more likely to be appropriate, provided this was for the purpose of communicating factual and impartial information about the activities of the agency and the Minister in their official capacities.

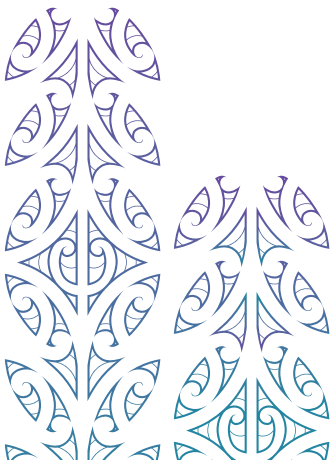
Principle that applies

Public servants need to be, and be seen to be, politically neutral in their official capacity.

Checklist: factors to consider

Whether the appearance of a public servant in publicity material could be seen as endorsing a political party will depend on a number of factors:

- exclusivity – whether the material is already public (for example, media footage or already published on a Minister's site)
- branding – the extent that the political party's brand appears alongside any public servant
- style and mode – whether the material is curated/staged and whether the public servants are deliberately or incidentally featured
- profile – whether the employee has a high public profile or is a very senior employee
- promoter – whether a promoter (authorisation) statement is included in the footage, which is requirement for election advertising.



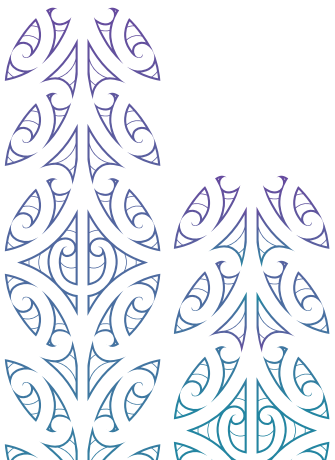
Practical guidance

The following guidance may help agencies and public servants in deciding whether it is appropriate to be involved in publicity material involving politicians:

- public servants should usually be able to appear in the background footage of a Minister
- it is unlikely to be appropriate for public servants to speak directly to camera
- public servants with a high public profile or who are very senior should not be prominently featured, if at all
- the manner of interaction between the Minister and the public servants should be considered to see if that might imply endorsement
- if appearing with a politician, it should also be clear that the politician is appearing in their ministerial capacity
- public servants would usually only be filmed on their work premises undertaking their normal business and usually only by media, ministerial staff or the agency
- political parties can film from public places or re-use publicly available footage but would not usually be given consent to film bespoke material on government premises

- if an agency is asked for consent to use footage of a public servant (or a public servant is asked personally), they should first understand the purposes for and ways in which that footage will be used
- where an MP or party seeks to visit an agency, it may be appropriate for the agency to ask in advance what photos or filming is intended (if any), and the use that the MP or party intend to make of any such photos or filming.

For further guidance, see Section 5: Public sector advertising, publicity and the media.



Advertising and publicity – short case studies

The following examples illustrate how the principle of political neutrality, the Government’s right to govern and the Government’s self-restraint in advertising may apply to agency advertising and publicity in an election period. Each answer will depend on the exact context the agency is working through.

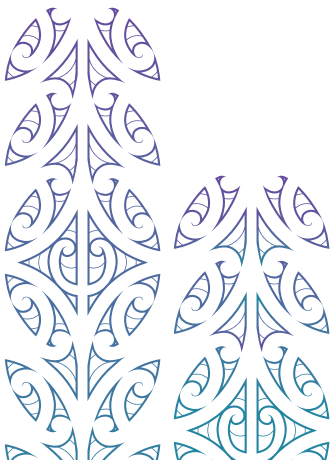
For further guidance, see Section 5: Public sector advertising, publicity and the media.

Scenario 6: Social media campaign to publicise community services

Following an earthquake, a number of different public and private sector agencies, citizen groups and non-government organisations (NGOs) want to advise the community of new and existing services available. A new website is setup and a campaign launched using Facebook and YouTube. The general election is to take place in three weeks.

Practical guidance

- This is a business-as-usual activity that needs to continue.
- When material is co-produced, the public sector agencies involved need to make sure their part of the content is politically neutral and follows the *Guidelines for Government Advertising*.
- If the public sector agencies involved have any concerns about the overall look of the material these should be talked through with the other organisations involved in the publicity.
- The public sector agency may need to reconsider their involvement if there is a perception that the agency is contributing to political material.

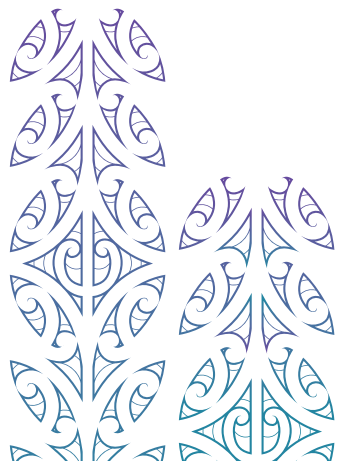


Scenario 7: Correction of misinformation

It is three months until the general election. An opposition party has criticised a government programme, but the criticisms are regarded as being based on incorrect information. The agency involved considers the criticism misleads the public and decides to make a media statement to correct the misinformation.

Practical guidance

- This situation requires careful consideration. The agency may get drawn into a political situation and may breach existing political neutrality principles.
- Although the agency is setting out to correct misinformation, the involvement of the opposition party means that the response may be better to come from the Minister.

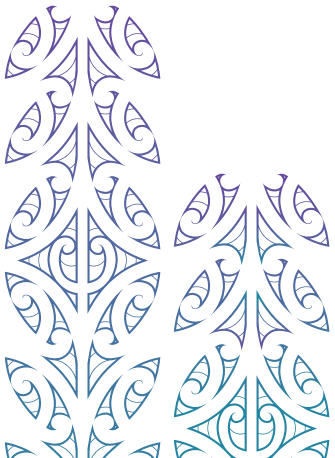


Scenario 8: Publicity of future services and benefits

An agency is responsible for a new programme which, if the current government is re-elected, will come into effect in March of the year following the election. The agency wants to start early with publicity so that all those who would be entitled to the new services and benefits under the programme are aware of it. The advertising will commence in September, which is one month before the general election.

Practical guidance

- In this situation, it may be prudent to delay the campaign until after the general election, particularly as the implementation of the programme may be dependent on the election outcome. That will reduce any risk that the campaign is seen as not being politically neutral.
- However, if the affected people need all the time between September to March to prepare for the possible change then this would be a good reason to proceed. If proceeding, the campaign needs to adhere to the *Guidelines for Government Advertising*.

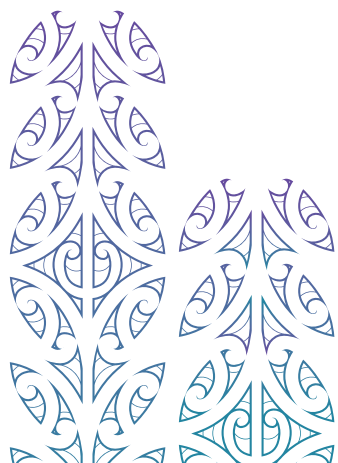


Scenario 9: Consultation on proposed government policy that is politically controversial

An agency is ready to undertake consultation on a proposed government policy by publishing a consultation document on their website. It is in the middle of a pre-election period and the topic is an election issue with strong and divergent views across political parties.

Practical guidance

- In general, consulting on a proposed government policy may be appropriate to go ahead close to an election where there is good reason to do so.
- If proceeding, the agency and staff need to carefully work through how they will meet their political neutrality obligations to mitigate the perception that funds are being used to finance publicity for party political purposes.
- However, if there is no reason to go ahead at this time an agency may consider talking to the Minister about a possible delay in the public consultation.





Te Kawa Mataaho
Public Service Commission

Te Kāwanatanga o Aotearoa
New Zealand Government

