



STATE SERVICES COMMISSION
TE KAWA MATAAHO



He Ārahitanga Pōtitanga Whānui General Election Guidance

New Zealand Government



This guidance identifies common principles and obligations that will assist those who work in the State Services during the lead-up to, and in the period immediately after, the 2020 general election.

This guidance replaces State Servants, Political Parties, and Elections: Guidance for the 2017 Election Period. It remains current until superseded.

Read further [guidance](#) on the State Services Commission website.

State Services Commission June 2020

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Rārangi upoko

Contents

State Services Commissioner's foreword	6
1. Introduction	7
• Who this guidance is for	8
• Background	9
• The role of the State services	9
• The Government's right to govern	9
2. Working in the State services	10
• Integrity and conduct obligations	10
• Political neutrality obligations	10
• Ministerial staff	11
• Social media use at work	11
3. State services agency responsibilities	12
• Staff policy and processes	12
• Business planning	12
• Leading up to the election	13
• After the election	13
• Managing MPs' visits	13
• Using public funds and resources	14
• Non-agency material	14
• Union activity	14



Rārangi upoko

Contents (continued)

4. State servants outside work	15
• Rights, freedoms and responsibilities	15
• Political interests	15
• The seniority of the role	16
• The nature of the role	16
• The visibility of the political activity	16
• The substance of the political activity	16
• Political activity and the media	17
• Using social media	17
• Managing significant political interests	18
• State servants standing for Parliament	19
• Taking leave and returning to work	19
• Seeking advice	20
• Board members standing for Parliament	20
5. The State services and the General Election	21
• The three election phases	21
• The pre-election period	21
o Timing of the pre-election period	21
o Exercise of voluntary restraint	22
o Working on government policy	22
• Election day	22
• The post-election period	23
o The caretaker convention principles	23
o The application of the convention to the State sector	23
o Seeking advice on the caretaker convention	24
o Forming a government	24



Rārangi upoko

Contents (continued)

6. Government processes during and after an election	25
• Political parties' access to information, including policy costings	25
• During government formation negotiations	25
• The process for political parties to access information	26
• Using policy costings information	26
• After government formation negotiations	26
• The Pre-Election Economic and Fiscal Update	27
• Briefings for incoming Ministers	27
7. Advertising, publicity and the media	29
• Government advertising	29
• Media comment	29
• Advertising and publicity campaigns	30
• Programme launches and events	30
• Election day advertising	31
8. Information requests and releases	31
• Caucuses and Members of Parliament	31
• Release of government information	31
• Proactive release of Cabinet papers	31
• Official information request responses	32
• Information requests from political parties post-election	32



Mai i te Kaikōmihana o Te Kawa Mataaho

Foreword by Peter Hughes, State Services Commissioner

We're releasing He Ārahitanga Pōtitanga Whānui | General Election Guidance 2020 in extraordinary times.

In response to COVID-19, the Government has imposed a range of measures to restrict and eliminate the spread of COVID-19. This will continue to have an impact on the business of government and the lives of New Zealanders over the coming year. The State services' mission is to serve the government of the day, and all New Zealanders, in a way that upholds their trust and confidence – and that will not change.

Later this year, our country will go to the polls. General elections are vital to our democratic form of government. It is important to publish this guidance to support the State services to do the right thing during the election period.

If any of the processes described in this guidance alters due to the State services' ongoing response to COVID-19, or for any other reason, we will update the guidance and communicate the changes.

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

The Public Service Legislation Bill, currently before Parliament, 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 Bill 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 State services of today and for future generations.

I encourage State servants 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 smooth transition between one government and the next.

Just as with the COVID-19 response, it is important that, over the election period, the State services continues to support the elected government with robust and impartial advice, sound business decision-making and effective delivery of services.



Kupu whakataki

Introduction

This guidance to the general election covers what it means to work in the State services before, during, and after an election.

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

This guidance has been refreshed and updated to reflect the current State services environment. There is more information in areas such as social media and advertising. It incorporates guidance that was previously issued separately, for example, State servants standing for Parliament.

There is information on the three phases of the election cycle: the pre-election period, election day and post-election period. 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 of the State services. The State Services Commissioner has issued this guidance, mandated under the State Sector Act 1988, to provide advice and guidance to the State services on political neutrality and integrity and conduct over the election period.

In general, this guidance applies to:

- Public service departments, departmental agencies, their employees and contractors
- New Zealand Defence Force
- New Zealand Police
- Parliamentary Counsel Office
- Crown entities (including district health boards) and their subsidiaries
- Crown entity companies and their subsidiaries
- school boards of trustees
- Public Finance Act 1989 Schedule 4 organisations
- Public Finance Act 1989 Schedule 4A companies
- Reserve Bank of New Zealand (see section 57(4) of the State Sector Act 1988).

Some State sector agencies that do not come within the State Services Commissioner's advice and guidance mandate include:

- Crown Research Institutes or their subsidiaries
- State-owned enterprises
- tertiary education institutions such as universities.

Anyone in the State sector can refer to this guidance to know more about political neutrality, and integrity and conduct obligations, in the election period.

Read the Cabinet Manual for an explanation of the [State services, and the State sector](#).

Read the Cabinet Manual for information on the [integrity and conduct](#) obligations of State sector staff.

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, district health board and licensing trust elections.



Background

The role of the State services

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

Serving government requires State servants to perform their role fairly, impartially and to a high standard. The sector's "license to operate" is based on the State services having the trust and confidence of both current and future governments, and the public. For example, State servants working in policy must provide the best, impartial, evidence-based policy advice to Ministers, while State servants in operational roles must deliver high-quality services to all New Zealanders, in order to maintain public trust.

The Government's right to govern

The Government has the right to govern, including in the pre-election period, if it has the confidence of the House and the caretaker convention does not apply. Ministers in government are responsible for advocating and deciding on government policy.



Te mahi i ngā whakahaere kāwanatanga

Working in the State services

State servants are involved in the general elections in two ways: at work, by supporting the business 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 State servants who exercise their political rights along with other New Zealanders. This guidance outlines some of the factors to consider in managing personal political interests alongside the State services' political neutrality obligations.

Integrity and conduct obligations

This guidance sits alongside the State Services Commissioner's *Standards of Integrity and Conduct*, agency policies and processes, and employment obligations.

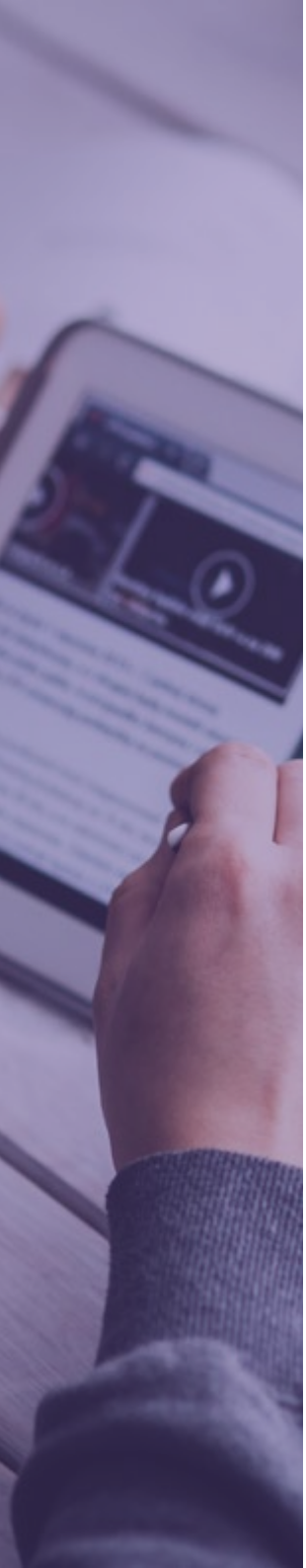
At work, State servants must meet high standards of integrity and conduct and be politically neutral at all times. This guidance discusses the expectations of integrity and conduct, including political neutrality, for the State services over the election period.

Read the State Services Commissioner's [Standards of Integrity and Conduct](#).

Read the Cabinet Manual: [Integrity and conduct throughout the state sector](#).

Political neutrality obligations

In serving the government of the day, State servants must be impartial and politically neutral. Political neutrality is a constitutional convention that supports the Government's trust in the State services to work in an impartial way. Political neutrality helps to manage potential for conflict between the State services' policy advice role and the Government's decision-making and advocacy role.



The political neutrality convention applies to the State services at all times, including in relation to elections, by-elections and referendums. While State servants have the same rights of political expression as other members of the public, State servants must respect other people's rights and interests in the workplace. Chatting about politics or policy in a private conversation with interested colleagues is acceptable in general but more overt, politically partisan, conduct may not be. For example, it is not appropriate to:

- 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 State servants will advise their manager if they receive emails from political parties at work, and not respond to or forward emails from political parties to other staff or agencies.

State 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 State 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 of, or with the consent of the Minister, and with the consent of their chief executive.

Ministerial staff

Like other State servants, Ministerial staff must not use official resources for political party purposes or undertake electioneering work for Ministers. Ministerial staff employed by the State services 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.

Read the [Code of conduct](#) for Ministerial staff.

Using social media at work

State 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, including social media. Agencies will have their own social media policy. State 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 [Guidelines for Government Advertising](#).



Ngā kawenga o ngā tari o te kāwanatanga

State services agency responsibilities

Staff policy and processes

Providing a positive, open and politically neutral working environment provides a foundation for supporting staff and respecting State servants' individual rights and freedoms.

State services chief executives are responsible for the integrity and conduct of their staff and maintaining the agency's political neutrality over the election period.

Staff policies play an important role in informing staff about what they need to know at work, including how to conduct themselves appropriately. Staff policies will be consistent with this guidance, including respecting State servants' individual rights and freedoms.

Useful and relevant staff policies will cover the significant issues that can come up for staff in an election year. This includes social media use, dealing with government information, advising the Minister appropriately, and notifying and managing outside work interests.

Policy and processes must not only be useful and relevant, it is just as important that they are regularly communicated to staff. Operating robust, fit for purpose, staff policies and processes is an important part of business planning. This is discussed below.

Business planning

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.

2020 has been an extraordinary year given the demands placed on all New Zealanders by the COVID-19 pandemic. This will have impacted on the business plan agencies had in place for the year.



Leading up to the election

It is important that agencies make their significant business decisions in time to include these in the Pre-Election Economic and Fiscal Update (PREFU).

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 advertising:
see [Cabinet Office Circular CO \(20\) 1](#).

After the election

After election day and before the new government is sworn in agencies must take into account the effect of the caretaker convention in conducting agency business; in particular, government policy.

Post-election, agencies must direct all requests from political parties negotiating to form a government (including incumbent Ministers of those parties) for information, analysis or policy costings to the State Services Commissioner and follow the State Services Commissioner's process in providing political parties with information.

The briefing to the incoming Minister can be finalised when there is a clear indication of who will be appointed.

Managing MPs' visits

Members of Parliament (MPs) may visit agencies from time to time as the representative of a constituent in their electorate. In the lead-up to the general election, MPs may request visits to agency premises for other reasons. MPs may also make requests for agency staff 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 is likely to breach political neutrality or if a request is otherwise considered inappropriate for the agency.



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 a State services 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.

While agency premises should never be used to host political activity, the Electoral Act 1993 does allow one exception to this: it allows schools to be used by political parties for election meetings. Like the public, political parties can hire premises that are public venues.

Non-agency material

In some workplaces, it may be permissible for staff 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.

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.



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

State servants outside work

Rights, freedoms and responsibilities

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

Political interests

Many State servants have their own political views and support particular political parties. Being politically neutral at work does not generally stop you 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 the interest with performing the particular role. The State Services Commission can provide assistance in these situations.

State servants who express their political views in their own time are unlikely to breach their employer's political neutrality obligations provided that they don't 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.

State servants who 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 will 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 in the political neutrality of their agency. The State Services Commission can provide assistance in these situations.

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

There are some things to think about in engaging in any political activity outside work that might impact the employment relationship. 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
- visibility of the political activity
- substance of the political activity.



The seniority of the role

Working in the State services is a privilege, involving ready access to government information, status and influence. The more senior the role, 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 that visible or public political activity outside work may be. State servants who work in top tier positions, including senior agency management and specialist positions, must take particular care about public perceptions when outside work.

The nature of the role

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

The visibility of the political activity

The more visible the political activity, the more likely it can have a damaging effect on the perceptions of the State services' political neutrality.

State servants must assess whether the level of visibility of the intended political activity could affect the confidence of Ministers and the public that their agency is able to operate in a politically neutral manner to serve the current and future governments.

The substance of the political activity

While voting in the election is always an acceptable political activity and encouraged, political expression that involves breaching the law or a code of conduct is never acceptable. For example, the unauthorised disclosure of government information, personal attacks on MPs or Ministers, or the misuse of government resources for political purposes.

Questions to ask about whether the political activity could interfere with work or the legitimate interests in the political impartiality of the State services, are whether the political activity:

- has a negative impact on the confidence of Ministers and the public in the political neutrality of the State services
- interferes with duties or workplace relationships
- involves a serious breach of the code 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 State services.



Political activity and the media

State 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 your agency policies apply to all media communications outside work as with other forms of communication. There must be a clear separation between State servants' work role and their personal use of media.

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

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

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 any new political messages on election day.

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



Managing significant political interests

Agreements between the agency and staff with significant political interests will manage and mitigate the political neutrality risks to their role and the agency, while supporting staff to exercise their individual political rights outside work.

Standing as a candidate for election is clearly a political activity with potential implications for employers, that needs to be notified and managed, in line with agencies' policies and processes, like any other interest that may present a conflict with a State servant's role.

Discussion between State servants with significant political interests and their manager, preferably at an early stage, about how the political activity may impact their work can help get agreement and resolve any uncertainties.

Top tier State servants, and those who interact regularly with Ministers, are particularly encouraged to discuss any significant political activity with their agency early on.

There is nothing wrong in having interests or activities outside work that may create a conflict with a work role, so long as they are identified and appropriately managed. A good management plan helps manage any political interests that may affect a State servant's work role, and for election candidates, a good plan will help smooth a possible return to work post-election.

Such a plan is concerned with the risks relating to a particular interest. It does not relate to and shouldn't affect career development or job satisfaction.

A good management plan will record the staff member and agency's agreement as to how interests will be safely and transparently managed. It will support and protect the rights of the staff member, 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.

Agencies can seek advice from the State Services Commission in relation to making a plan to manage the risks associated with staff members' political interests.



State servants standing for Parliament

State servants and board members of Crown entities 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 State services.

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

If standing for election, State servants must separate their political candidacy from their work role and their agency, and take care not to appear to use their State services' 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
- carrying out personal attacks on Ministers
- acting in other ways that may detrimentally affect the politically neutral reputation of the State services.

It is important to notify the employer of the candidacy and put an agreed management plan in place early on. A plan can help to manage the political neutrality risks to the agency in a way that is transparent and supports the politically neutral reputation of the State services.

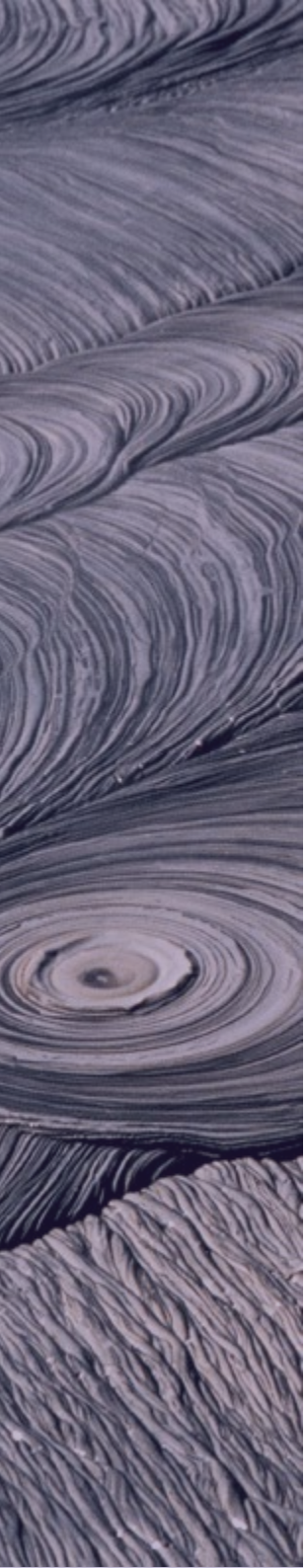
Taking leave and returning to work

State servants must inform their chief executive once they are confirmed as an election candidate. The Electoral Act 1993 requires State servants who wish to stand for election as a member of Parliament to be placed on leave of absence for the purposes of his or her candidacy.

For State servants employed by Public Service departments, the New Zealand Police, the New Zealand Defence Force, the Education Service and the Cook Islands and Western Samoan Public Service, the Electoral Act 1993 requires those State servants to take a leave of absence from nomination day until the first working day after election day.

State servants who work for a statutory Crown entity, Crown entity company, an organisation on the 4th Schedule of the Public Finance Act 1989, or a company on Schedule 4A of the Public Finance Act 1989, may want to also consider taking leave to preserve the political neutrality of the State services, in discussion with their employer.

Sometimes it may be appropriate to take leave before nomination day. This can happen when the employer decides, after consulting the employee, that their candidacy materially affects either their ability to carry out their State services role satisfactorily or to be seen as independent in relation to performing the particular duties of their role. During the stand-down period, State servants can use any paid annual leave they are entitled to.



The Electoral Act 1993 provides that State servants who are elected to Parliament automatically resign 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 required.

Seeking advice

State servants can get advice and discuss their political activities or interests with their manager. State servants are entitled to bring a representative to these discussions.

State servants can get advice from their manager whatever the level of intended political engagement outside work. There are advantages in discussing any concerns with your manager early on.

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.

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

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 (s 89 CE Act) while appointed board members of statutory Crown entities (ie, Crown agents, autonomous Crown entities and independent Crown entities) immediately cease to hold office upon becoming Members of Parliament (s 45 CE Act); and elected members of statutory Crown entities may retain their board positions while concurrently serving as Members of Parliament (s 30(3) CE Act).

In addition, s 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.

See the [Crown Entities Act 2004](#)

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.

A vertical photograph on the left side of the page shows two women sitting at a table. The woman on the left is smiling and looking towards the right. The woman on the right is looking down at some papers on the table. They appear to be in a professional or academic setting.

Ngā kaimahi tari kāwanatanga me te Pōti Nui

The State services 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 three election phases are:


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

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 election period 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 the election. In 2020, it starts on 19 June. During the pre-election period, unless the Government has clearly lost the confidence of the House and sees itself 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 State services from the date when the Prime Minister



announces the election 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: [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.

State 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.

Election day

In 2020, election day is 19 September. There is a ban on all political advertising, including social media, on election day.

State servants are strongly encouraged to vote. State 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

After the election, the caretaker convention applies until the new government is appointed. During this time, all government agencies must apply the caretaker convention principles.

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

When the caretaker convention applies

The caretaker convention applies in two situations:

- in the post-election period and 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 State sector

The statutory provisions that govern decision-making in Crown entities, state-owned enterprises and other State sector agencies may impose different obligations to those that apply to the State services. However, it is expected that during the caretaker period, all State 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 State 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.

State servants are not directly involved in political party negotiations.

During negotiations, political parties may ask for information from the State sector. The Prime Minister authorises these requests to agencies during this period. The State Services Commissioner administers this process and is the facilitator and contact between political parties and State sector agencies.

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 paragraphs 6.41 to 6.47 of the Cabinet Manual.

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

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



Ngā tukanga ā-kāwanatanga mō te pōtitanga

Government processes during and after an election

Political parties' access to information, including policy costings

During government formation negotiations

The State Services Commissioner manages agency involvement in the negotiations to form a government.

Inter-party negotiations to form a government are the business of politicians. However, the negotiating parties may want information and analysis from the State sector on issues that might form part of any coalition, support or other agreement. This includes policy costings information.

Agencies must follow a procedure when providing information

In the government formation process, all the State sector agencies must follow the State Services Commissioner's procedure to provide information and analysis to negotiating parties. The process is mandatory. The State Services Commissioner works closely with the Department of the Prime Minister and Cabinet (DPMC) and the Treasury to coordinate the process.

Refer information requests to the State Services Commissioner

Central agency chief executives play a key role in providing information and analysis to political parties in the formation of government period.

Agencies that receive direct requests for information or assistance from political parties (including parties represented in the Government) must refer the requests to the State Services Commissioner.

The State Services Commissioner coordinates the response

The State Services Commissioner, DPMC Chief Executive, Secretary to the Treasury and the Secretary of the Cabinet may meet with the political party to clarify the request and decide which agencies are best placed to provide assistance.

Policy costings

The Treasury is consulted on requests for costing political party policies.

Find out more about [political party policy costings](#).



The process for political parties to access information

Once an information request is received by the State Services Commissioner and a decision has been made to grant the request, the State Services Commissioner will make a written request to the relevant agency or agencies for the information the political party is seeking.

Only State servants directly involved in providing information or analysis are privy to the exercise. Information can be provided to political parties by agencies in writing or at a meeting. Meetings are arranged through the State Services Commissioner. If the information request involves agencies that have a monitoring department, the request will be copied to the monitoring department's chief executive. For example, an information request to a district health board will be copied to the Director-General of Health.

Using policy costings information

Policy costings are official information and may be requested and released under the Official Information Act 1982.

There is a convention between Ministers and the State services, 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 State services, and its ability to serve successive governments.

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 State Services 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 State Services Commissioner, brief incoming Ministers on their portfolio responsibilities. The Secretary of the Cabinet will inform chief executives of the Prime Minister's authorisation.



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. It must be published between 20 and 30 working days before the election date.

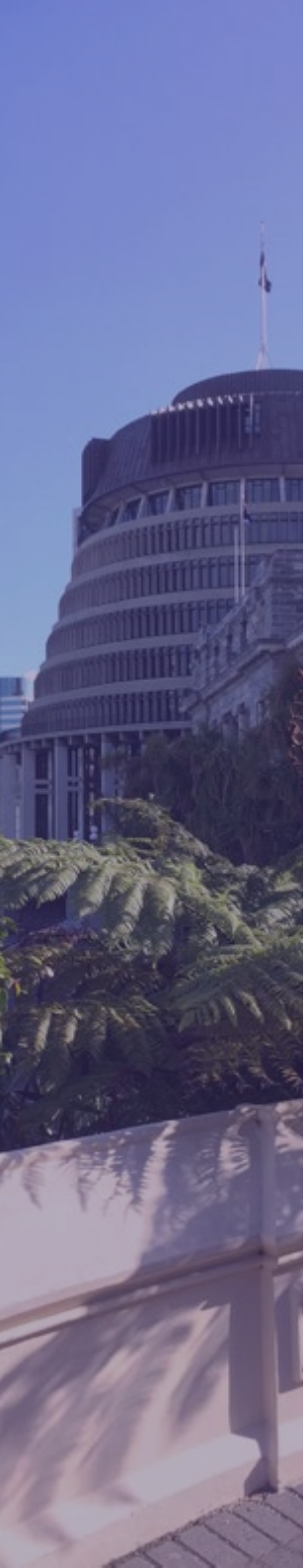
The PREFU incorporates the fiscal and economic implications of both government decisions and global factors as at the date of publication, and as communicated to the Treasury by the Minister of Finance, in accordance with the Public Finance Act 1989.

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.

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 after the 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

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 Official Information Act 1982 (OIA). The portfolio or lead Minister may authorise the agency to provide copies to Associate Ministers.

Agencies can expect to receive instruction from their Minister's office when and if the Minister decides to release the BIM.

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



Te pānuitanga, te whakaaturanga me te pāpāho

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, State servants must be alert to the heightened political sensitivity around government advertising and any perceived risk that government funds are being used to pay for publicity for political parties.

Deferring some advertising in the pre-election period may be sometimes appropriate. 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.

Being politically neutral also applies to communications within an agency. For example, political material, whether it's for the general election or preferences in referendum voting, must not be displayed on agency premises, vehicles, websites, or emailed from the agency. State servants must not publicly communicate their political preferences at work, for example, by wearing political party advertising on a t-shirt.

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.

State 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.



Advertising and publicity campaigns

The *Guidelines for Government Advertising* apply to both Ministers and the State services' 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:

- deal only with matters that the Government has direct responsibility for, such as informing the public about government policies or services, advising the public of their entitlements or responsibilities, or encouraging the public to adopt some kinds of behaviour that is in the public interest (eg, road safety advertising)
- 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
- be undertaken only where there is an identified and justifiable need for information.

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

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 State services remain politically neutral.

Agencies can take steps to reduce the risk that launches or events may somehow call into question the political impartiality of the agency. For example, by ensuring that 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 after the election.



Election day advertising

Like all other New Zealanders, State servants must follow the rules that apply to the public and political parties on election day and during the advance voting period.

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

Ngā tono pārongo me te tuku atu

Information requests and releases

Information requests can come to the State services in a variety of ways, and from different political entities and members of the public.

Caucuses and Members of Parliament

Caucuses are political entities and cannot direct the State services 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.

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 OIA.

Proactive release of Cabinet papers

This 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.



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

State servants must be even-handed in responding to OIAs and treat all requesters equally. The only reasons for withholding information are those specified in the Act.

Chapter 8 of the Cabinet Manual has guidance on the release of official information, including the involvement of Ministers in a release.

Agencies are not obliged to consult their Minister on a request for official information, unless:

- the request relates to Cabinet material (as this is related to his or her activities as a Minister); or
- it helps the agency make an appropriate decision about the request.

Transferring an OIA request to the Minister's office is mandatory 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.

State servants must not become involved in assessing the political consequences of releasing information. Notifying the Minister of the agency's decision on the release of the OIA, along with providing released information, may be appropriate if it is considered necessary to enable the Minister to prepare for the possibility of public or political commentary.

Read the SSC's guidance on [Minister and Agency Official Information Requests](#).

Read the Cabinet Manual guidance on [OIA releases](#).

Read the Ombudsman's guidance on [release of information for Ministers and agencies here](#).

Information requests from political parties' post-election

The OIA also applies to information provided to political parties that are negotiating to form a new government. The State Services Commissioner should be advised of the request and the approach the agency intends to take. If necessary, the State Services Commissioner will coordinate the response.

