



# Standards for providing information to political parties during negotiations to form a government

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## Purpose

The Public Service Act 2020 sets out the process for political parties that wish to access support from public service agencies for the purposes of negotiations to form a government.

These standards have been set with the aim of providing negotiating political parties with efficient and timely access to relevant information from agencies. This is so that negotiations to form a new government can proceed smoothly and in a way that protects the political neutrality of the public service.

## Scope

These standards are issued by the Public Service Commissioner under clause 20, Schedule 3 of the Public Service Act 2020. The standards are mandatory for public service agencies and functional chief executives and apply to requests by political parties for access to public service agencies for the purpose of negotiations to form a government.

All State sector agencies are expected to observe the standards when dealing with requests for information or analysis from political parties in the government formation negotiations, and to involve their monitoring department (where relevant).

## Definitions

**public service agency** is defined in section 10 of the Public Service Act 2020 and means departments, departmental agencies, interdepartmental executive boards and interdepartmental ventures.

**Information includes** information held by the agency and analysis completed by the agency, such as:

- briefings on existing government policy;
- information relating to and analysis of a party's proposals, including costings;
- discussions on the implications of proposed policies; and
- discussions on the effects of modifying or combining policies and the details of their implementation,

but **excludes** the following categories of information:

- policy advice or recommendations on the design, development or merits of a party's proposed policies;
- policy advice provided to a past or current government (this can be requested under the Official Information Act 1982 – see the section below: “Requests for information by political parties using other channels”); and
- personal information (unless the Commissioner otherwise approves the disclosure of that information).



## Overview of the process in the Public Service Act 2020 (Schedule 3)

The Public Service Act 2020 sets out the process that must be followed if a political party wishes to have access to a public service agency, including access to information held by the agency or having an analysis completed by the agency. (See Schedule 3, clauses 17-20)

All requests by political parties for information to support the government formation negotiations must be made to the Commissioner<sup>1</sup>. (See clause 17(2))

A political party involved in negotiations to form a government can seek information from agencies for the purposes of the negotiations from the day after the election until the day when the Commissioner is satisfied that the negotiations to form a government involving that party have concluded. (See clause 17(4))

A request to the Commissioner must contain sufficient information to satisfy the Commissioner of the following:

- that the political party making the request is or will be a party to negotiations to form a government; and
- that the information or analysis sought is relevant to those negotiations. (See clause 18)

The Commissioner must approve such a request if reasonably satisfied these requirements have been met, subject to these Standards. (See clause 19)

The Commissioner must set standards for public service agencies to follow when complying with a request for information. The standards may specify categories of information that cannot be made available. Agencies must comply with these standards, unless otherwise agreed by the Commissioner. (See clause 20)

## Requests for relevant information made by political parties

Information requests from political parties must be made to the Commissioner. If a request is made directly to an agency then this must be referred to the Commissioner.

Requests for information must specify:

- the name of the political party;
- that the request is required to support negotiations between political parties to form a government and that the information or analysis is relevant to those negotiations; and
- a description of the specific information requested. If known, this may include the portfolio area and the agency or agencies believed to be most likely to be able to provide the information.

The Commissioner will consider the party's request and may seek clarification.

There may be an offer to meet with the political party to discuss the request or the assistance available and the agencies best placed to provide the information.

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<sup>1</sup> References to the "Commissioner" in these Standards also include any delegate



## Commissioner's request to an agency for information

The Commissioner will contact the relevant agency, as soon as practicable after a clarified request has been made, requesting the information that is sought.

The receiving agency must respond to the request as soon as possible or within 2 working days, or in such other timeframe as has been agreed with the party making the request. If the responding agency requires additional time, the Commissioner must be informed and a new time frame set. The Treasury must always be consulted on requests for costing information and analysis.

## Responding to an information request

Once an agency receives an information request from the Commissioner, the chief executive is responsible for the response.

Agencies providing information must follow the steps, below, in developing the response:

- a. Chief executives must safeguard the political neutrality of their agency at all times during this process;
- b. A request for agency information from a negotiating political party will be highly sensitive and require both judgement and discretion, and therefore should only involve a limited number of designated staff;
- c. The agency must exclude categories of information specified by the Commissioner in these Standards;
- d. The agency must respond to all aspects of the information request to the best of its ability;
- e. All information and analysis must be approved by the agency's chief executive before it is provided to the political party;
- f. Information and analysis can only be provided to a political party on the matters that have been explicitly identified in the request; and
- g. If an agency is requested to provide costings for information and analysis, the costings must be developed in consultation with The Treasury. The Treasury's guidance on costing political party policies can be found [here](#).

## Release of information to a political party

Once the agency's chief executive has approved the information release and obtained the Commissioner's approval for transmission to the political party, the information and analysis is sent directly to the political party by the chief executive and a copy is sent to the Commissioner at the same time.

Agency information or analysis is usually provided to the political party in writing. If required, a face-to-face meeting can be arranged as soon as possible after the information has been provided to explain it. Any face-to-face meeting between the agency and a political party must be arranged through the Commissioner. The Commissioner (or his designated representative, who may be from another agency) must attend the meeting and take full minutes.



## **Disclosure of information relating to negotiations to form a government**

The Official Information Act 1982 applies to information and analysis provided to political parties negotiating to form a government.

At an appropriate time after the negotiations have concluded, the Commissioner will co-ordinate a proactive release of the relevant material.

## **Requests for information by political parties using other channels**

Political parties may seek information through other channels, for example, under the Official Information Act (an OIA request).

All OIA requests made to government agencies during the government formation negotiations and for the purpose of those negotiations must be notified to the Commissioner as soon as they are received by the agency, notwithstanding that the response remains the responsibility of that agency under the Official Information Act.

Responses to such OIA requests must be expedited and must fully meet all requirements under the Official Information Act.