



Political Neutrality Policy

GOVERNMENT OF THE COOK ISLANDS

Effective: April 2018

Policy Statement

The purpose of this policy is to ensure that public servants:

- remain politically neutral while employed in public sector agencies;
- adhere to Caretaker Conventions when a general or snap election is called.

Scope

This Policy applies to all Public Sector Agencies – except Ministerial Support Offices.

Principles

The Public Service Act 2009 identifies the following values for public servants to adhere to:

Honesty	acting honestly, being truthful, and abiding by the laws of the Cook Islands
Impartiality	providing impartial advice, acting without fear or favour, and making decisions on their merits
Service	serving the people well through faithful service to the Government of the Cook Islands
Respect	treating the people, the Government of the Cook Islands and colleagues with courtesy and respect
Transparency	taking actions and making decisions in an open and transparent manner
Accountability	being able to explain the reason for actions taken and taking responsibility for those actions
Efficiency and Effectiveness	achieving good results for the Cook Islands in an economical way

Maintaining the confidence of any government and exercising good judgement is fundamental at all times so as not to compromise the political neutrality of the Public Service.

The Public Service Act and the Code of Conduct provides that all Agencies must ensure public servants maintain the same relationship with their current and future Minister.

Legislation and Regulations

Public Service Act 2009, Cook Islands Constitution Act 1965, Electoral Act 2004, Ministry of Finance and Economic Management Act 1995-96 and other relevant legislation.

Definitions

Agency means any public service department, instrument, or agent of the Government and includes a body corporate or organisation that is wholly owned or controlled by the Crown

Caretaker Government means a government that has power for a short period of time until a new one is appointed by the Queens Representative

Convention means an agreement between states covering particular matters, especially one less formal than a treaty

Employee means any person who is an employee of the Public Sector

Employer means the Public Service Commissioner and Heads of Public Sector Agencies or their delegated authority

General Election is an election usually held at regular intervals in which candidates are elected in all or most constituencies of a nation or state

Neutral means the state of being impartial and not supporting either side

Political Neutrality means a person working in the Public Service to act in the course of their duties in a politically neutral manner

Public Service Commissioner means the Public Service Commissioner appointed under Article 73 of the Cook Islands Constitution and section 5 of the Public Service Act 2009

Public Servant means an employee of a 'Public Sector' Agency as defined in this policy

Snap Election is an election that is called earlier than expected

Stakeholders for the purposes of this policy means people who have an interest in the public service, including government, employees, private sector, non-government organisations, development partners and the general public

Procedures

Employers are responsible for administering this policy and developing procedures to support implementation of the policy. Employers are also responsible for ensuring all policies are easily accessible to employees. Employees must read, understand, and comply with this and other relevant government policies. A breach of the policy may be considered misconduct and may be subject to disciplinary action.

Political Neutrality

Political neutrality is unique to the public sector. It means that public servants must perform their duties professionally and without bias towards one political party or another.

This is particularly important at a general election time or a snap election as behaviour, relationships and expectations between public servants, Ministers and Members of Parliament that would otherwise be normal, may be lose the confidence of a future government.

Public Service Commissioner must:

- a. Ensure that Heads of Agencies are not subject to unlawful or improper pressure from Ministers of the Crown or Members of Parliament;
- b. Act as an intermediary between the Minister and Heads of Agencies in relation to issues regarding the ministry functions or where required.

All Public Servants must not:

- Express their personal views in a way that could be taken as a comment in their official capacity rather than as a private citizen;
- Engage in personal attacks or make comments on individual Members of Parliament;
- Criticise government policy with which they have been professionally involved with or which they are required to implement;
- Reveal advice given to Ministers or use and/or reveal information they are not authorised to
- Disclose information and/or which is not readily available to the general public.

Caretaker Conventions

Once the dissolution of Parliament is announced by the Queen's Representative, Caretaker Conventions will apply. Successive governments have accepted that, during the period preceding an election the government assumes a 'caretaker government' role until the new government is appointed. During the caretaker period, the business of government continues and ordinary¹ matters of administration still need to be addressed.

A series of practices known as 'caretaker conventions', aim to ensure that the caretaker government's actions, do not bind an incoming government and limit its freedom of action. The conventions are that the caretaker government avoids:

- Making major policy decisions that are likely to commit an incoming government
- Make significant appointments
- Enter into major contracts or undertakings

As such, the Government Opposition must be consulted on any significant matters contrary to the conventions with an explanation of why the proposed action is considered necessary during the caretaker period.

The Ministry of Finance and Economic Management is required to produce a fiscal and economic update (Pre-election Budget) within 14 days of an election date being announced.

All Agencies must adhere to the following conventions:

1. Major² policy decisions

- Avoid proposing major policy options during the caretaker period unless in cases of emergency
- Advise the Minister when making decisions on significant matters during the caretaker period

2. Significant³ appointments

- Defer permanent/fixed term appointments to significant roles during the caretaker period
- Consider making acting appointments where permitted
- Consider making short term appointments if required

3. Major⁴ contracts

- Avoid entering into major contracts or undertakings during the caretaker period unless in cases of emergency
- Defer the signing of major contracts where permitted
- Manage existing major contracts

4. Regional/International⁵ negotiations

- Avoid entering into major international negotiations unless in cases of emergency
- Defer any international negotiations where permitted
- Seek approval of the Opposition if negotiations are critical and must continue during the caretaker period

¹ Ordinary refers to 'business as usual' operations that are already included agency business plans and appropriated

² Policy decisions that can be significantly binding on a future government

³ Significant relates to senior executive/head of public sector agency positions only

⁴ Major/significant expenditure that can be binding on a future government

⁵ Major/significant negotiations/agreements that can be binding on a future government

Avoid involvement in election activities

Agencies must adhere to the following during the Caretaker period:

1. Advertising and information campaigns

- Ensure all advertising campaigns are reviewed by the Public Service Commissioner to ensure government resources are not used for political gain
- Not be involved in the printing and distribution of political material
- Not undertake activities that promote new⁶ government policies
- Report evidence of misuse of government resources to the Public Service Commissioner

2. Internet and electronic communications

- Prevent the use of the government ICT network for wide distribution of campaign materials
- Ensure that agency ICT resources are not used to support any particular political party
- Report evidence of misuse of government ICT resources to the Public Service Commissioner

3. Agency websites and other mediums

- Refrain from making political statements that may be interpreted as promoting new government policies
- Report evidence of misuse of government websites or other mediums to the Public Service Commissioner

4. Use of Agency Premises and Assets

- Refrain from using premises for political activities other than Ministerial visits to conduct routine government business
- Refrain from using government assets (laptops, office equipment and stationery, motor vehicles) for political activities other than the routine business of the Agency

5. Political Participation

- Public servants who are running for election **MUST** resign from their job prior to confirming their nomination as a candidate for election
- Ensure public servants do not use their positions to support political issues or parties during an election campaign
- Must exercise judgement and limit their statements regarding their work in the public service
- Ensure public servants decline invitations to speak/make comment on controversial issues

6. Requests for information from Ministerial Support Offices and Members of Parliament

- Continue to support the Minister where information requested relates to the day-to-day business of government. *If in doubt, contact the Public Service Commissioner for advice*
- Provide equal access to information for Ministerial Support Offices and Members of Parliament
- Refrain from responding to requests for new policy advice during the caretaker period. *If in doubt, contact the Solicitor General*
- Support policy advice on urgent domestic or international issues with guidance from *the Public Service Commissioner and the Crown Law Office*

7. Budget and Other Policy Costing

- Seek advice from the Financial Secretary on any issues that may arise in relation to policy costings or Agency budgets during the caretaker period

⁶ New – would be new government policies that have been developed or approved during the Caretaker period

Other Provisions

All records relating to key aspects of the caretaker period must be kept for at least seven years and will only be accessible by the employer and/or authorised staff. After the seven year period, the agency may destroy the documentation in adherence with government official information management policies.

The Office of the Public Service Commissioner is responsible for reviewing and updating this policy and associated documents from time to time.

Associated Documents

Code of Conduct Policy

Other information

To report the misuse of government resources, ICT resources, websites (other mediums), premises and assets to the Public Service Commissioner on phone (682) 29421 or email: opscinfo@cookislands.gov.ck

For policy queries contact the Office of the Public Service Commissioner on phone (682) 29421 or email: opscinfo@cookislands.gov.ck