



Policy Statement

The purpose of this policy is to ensure that public servants remain politically neutral while employed in public sector agencies and 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 (PSA) provides 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 way.
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.

The duty to act as a good employer (PSA 2009) requires employers to develop and implement personnel policies which ensure the fair and proper treatment of employees during employment, including the impartial recruitment of employees, provide employee capability development opportunities and good and safe working conditions.

The Cook Islands Government Policies and ERA prohibits the discrimination on the grounds of race or ethnic origin, beliefs, religion, gender or sexual preference, disability, age or health status.

Legislation and Regulations

Public Service Act 2009, Employments Relations Act 2012 (ERA), Public Service (Identification of Departments) Order 2008, 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 government is sworn in or appointed by the Kings Representative.

Caretaker Conventions means the conventions that a Caretaker Government follows, more specifically it means that the Caretaker Government will not make any major policy decisions or bind the Crown to any major projects whilst under a Caretaker Government.

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

Employee means a person engaged to work under an employment agreement. It does not include an independent contractor/consultant engaged under a contract for services.

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.

Government Opposition means the elected Members of Parliament of the Cook Islands that are not members of the ruling Government.

Major Contracts means major or significant expenditure that can be binding on a future government.

Major International Negotiations means major or significant negotiations or agreements that can be binding on a future government.

Ordinary Matters of Administration means 'business as usual' operations that are already included in agency business plans and appropriated.

Political Neutrality means the requirement for a person working in the Public Service to act in the course of their duties in a politically neutral and impartial manner.

Public Service Commissioner (PSC) means the individual appointed under Article 73 of the Constitution and Section 5 of the PSA.

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. The employer is responsible for ensuring all policies are easily accessible to employees. However, employees are responsible for ensuring they read and understand this policy and any relevant government policies. A breach of the Policy may be considered misconduct and may be subject to disciplinary action and/or dismissal.

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 important at all times but particularly during a general election or snap election as behaviour, relationships and expectations between public servants, Ministers and Members of Parliament will likely be under greater scrutiny. Biased behaviour may damage public confidence in a future government and/or future Ministers' confidence in Agencies.

The Public Service Commissioner must:

- Ensure that Heads of Agencies are not subject to unlawful or improper pressure from Ministers of the Crown or Members of Parliament.
- Act as an intermediary between the Minister and Heads of Agencies in relation to issues regarding the Agency's functions, and where required elsewhere.

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 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 reveal.

- Disclose information which is not readily available to the general public.
- Be subject to unlawful or inappropriate political pressure from any persons.

Caretaker Conventions

Once the dissolution of Parliament is announced by the King'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 Ordinary 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.

All Agencies must adhere to the following conventions:

1. Major policy decisions (policy decisions that can be significantly binding on a future Government).

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

2. Significant appointments (Senior Executive and Head of Public Sector Agency positions only).

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

3. Major contracts.

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

4. Regional/International negotiations.

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

Avoid involvement in election activities

Agencies must adhere to the following during the Election and Caretaker period:

1. Advertising and information campaigns (CIGOV Election Guidelines 2022 page 6).

- 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 new government policies.
- Report evidence of misuse of government resources to the Public Service Commissioner.

2. Internet and electronic communications (CIGOV Election Guidelines 2022 page 6).

- Prevent the use of the government ICT network for distribution of election 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 (CIGOV Election Guidelines 2022 pages 6 and 8).

- 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 (CIGOV Election Guidelines 2022 page 9).

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

5. Political Participation (CIGOV Election Guidelines 2022 page 7).

- 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.
- Public servants with approval under the Private Enterprise Employment Policy should exercise judgements and care when deciding whether to provide their goods or services at political event.
- Ensure public servants decline invitations to speak or make comment on controversial issues.

6. Requests for information from Ministerial Support Offices and Members of Parliament (CIGOV Election Guidelines 2022 page 6 and 7).

- 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 (CIGOV Election Guidelines 2022 pages 6 and 7).

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

Other Provisions

All records relating to the administration of this Policy must be kept for at least seven years for audit purposes and are only accessible by the employer and/or authorised staff. After the required 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/or updating this Policy and associated documents as the need arises or at a minimum once every three years.

Associated Documents

Code of Conduct Policy
 Political Neutrality Guide 2022
 Election Guidelines 2022

Other information

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