Cabinet Office

CO (26) 7

Circular

9 November 2026

Intended for

All Ministers
All Chief Executives
Chief of Staff, Prime Minister's Office
All Senior Private Secretaries
Speaker of the House of Representatives
Chief Parliamentary Counsel
Controller and Auditor-General
Chief Ombudsman
Official Secretary, Government House

CO 26 (7) Government Decision Making during the Period of Caretaker Government

Introduction

1 Following the general election on 7 November 2026, negotiations to form a government are expected to commence in the coming weeks.

2 In accordance with the convention on caretaker government, the Prime Minister has indicated that the incumbent government will govern in a caretaker capacity until the appointment of the new government.

3 The declaration of the official election results is expected by 2pm on Friday 27 November, and the return of the writ and the declaration of successful list candidates by Thursday 3 December (or 4-5 days thereafter in the event of recounts).

4 This circular provides guidance for Ministers and public sector agencies[1] on:

4.1 the application of the caretaker convention;

4.2 taking decisions during the period of caretaker government;

4.3 consultation with political parties during this period;

4.4 Cabinet meetings; and

4.5 support from the public sector for negotiating parties.

5 This guidance supplements the information in Cabinet Office circular CO (26) 5 *Constitutional Procedures after the Election*, issued on 25 September 2026.

[1] For the purposes of this circular, "public sector" has the meaning in paragraph 3.5 of the Cabinet Manual 2023.

Application of caretaker convention

6 Until a new government has been appointed, the incumbent government will operate in accordance with the caretaker convention.

Key principles

7 The key principles of the caretaker convention, as applied during the government formation period, are as follows (see further paragraphs 6.21- 6.40 of the Cabinet Manual):

7.1 there must always be Ministers in office to advise the Governor-General and to exercise the powers of executive government;

7.2 the normal business of government, and the day-to-day administration of departments and other agencies in the public sector, may continue as usual;

7.3 decisions taken before the start of the caretaker period may usually be implemented;

7.4 significant decisions, new policy, or changes to existing policy and actions with long-term implications should, however, be deferred if possible;

7.5 if it is not possible to defer decisions of that nature, the government should handle matters using temporary or holding arrangements that do not commit the government in the longer term;

7.6 if neither deferral nor temporary arrangements are possible, the government should undertake the political consultation necessary to establish whether the proposed action has the support of a majority of the House of Representatives.

8 No hard and fast rules are possible. Ministers and chief executives may need to take into account various considerations (including political considerations), both on whether it is appropriate or necessary to proceed on a matter, and how it should be handled.

9 The government formation negotiations are likely to result in agreements between parties, which will formalise the composition of the new government and the basis on which it will operate.

10 The caretaker convention will continue to apply, in an amended form, between the conclusion of such agreements and the appointment of the new government (see paragraphs 6.29 and 6.30 of the Cabinet Manual on this "second arm" of the caretaker convention). Further guidance will be issued about that at the appropriate point.

Ministers

11 Ministers should consider the following:

11.1 during the caretaker period, matters may arise that would normally require a decision by a Minister or Cabinet. To ascertain how the caretaker convention applies to the decision, Ministers may seek advice from their officials or from the Cabinet Office. Ministers should discuss significant or difficult decisions concerning the caretaker convention with the Prime Minister and/or their ministerial colleagues;

11.2 in cases where any doubt arises as to the application of the caretaker convention, Ministers should consult the Prime Minister. Final decisions concerning the caretaker convention rest with the Prime Minister.

Public sector agencies

12 The day-to-day administration of public sector agencies should continue during the caretaker period.

13 Public service agencies should consider the following:

13.1 issues arising within public service agencies that have caretaker convention implications should be referred to the caretaker Minister, who will decide (in consultation, if appropriate, with ministerial colleagues and/or the Prime Minister) how the convention applies and how the decision should be handled;

13.2 public service agencies should be ready to provide advice to the Minister (if required), to assist the Minister in deciding on the application of the caretaker convention, and the options for handling the decision;

13.3 on rare occasions, caretaker convention issues may arise in relation to matters that, under statute, fall solely within the decision-making authority of a chief executive or statutory officer. Where appropriate, chief executives and statutory officers should observe the principles of the caretaker convention when making those decisions.

14 The statutory provisions governing decision-making within Crown entities, state-owned enterprises, and other public sector agencies impose different obligations from those applicable to decision-making within public service agencies and non-public service departments. However, Crown entities, state-owned enterprises, and other public sector agencies should apply the principles of the caretaker convention to decision-making during the caretaker period, as far as possible taking into account their legal obligations and statutory functions and duties. These agencies should discuss with their Ministers any issues with caretaker convention implications.

Consultation with political parties

15 Where consultation with other political parties on matters of government business is required, it must be discussed in advance with the Prime Minister or Cabinet. The Chief of Staff in the Prime Minister's Office will co-ordinate any consultation with other political parties on government business during the period of caretaker government.

16 Officials should alert their Minister's office at an early stage to any issue that may require such consultation. Ministers' offices should in turn notify the Chief of Staff in the Prime Minister's Office.

Cabinet decision-making

17 Cabinet has authorised a group of Ministers comprising the Prime Minister, the Deputy Prime Minister, Rt Hon Winston Peters, Hon Nicola Willis and Hon Chris Bishop, and the relevant portfolio Minister as appropriate, to have Power to Act to take decisions on any urgent matters arising that require Cabinet level decisions in the immediate post-election period if required until the formation of government [CAB-26-MIN-0322]. Any such decisions will be taken by the group of Ministers in the context of the caretaker convention.[2]

18 The Cabinet Office should be advised of any issues that need to be considered by the group of Ministers with Power to Act during the caretaker period.

[2] Any changes to the group of Ministers with Power to Act will be communicated via Ministers' offices.

Ministers who are not returned as members of Parliament

19 Current ministers continue with their existing responsibilities after the election, until new Ministerial appointments are made or their responsibilities are reassigned. Ministers who are not returned as MPs may continue in office for a period, but must leave office at the end of the day after the day on which the Electoral Commission declares the elected list candidates in accordance with section 193(5)(a) of the Electoral Act (see section 6(2)(b) of the Constitution Act 1986). In that case, the Prime Minister will reassign portfolio responsibilities on an acting basis.

Guidance on support from public sector agencies

20 The Public Service Commissioner manages any involvement by officials in providing information to negotiating parties during the government formation process, in accordance with the process set out in the Public Service Act 2020.

21 Requests for information or support from the public sector by political parties involved in negotiations must be made to the Commissioner. Agencies should inform the Public Service Commissioner immediately if approached directly by political parties for information to support negotiations.

22 The Public Service Commissioner has set standards in relation to this process, entitled *Standards for providing information to political parties during negotiations to form a government*. The standards are mandatory for public service agencies and functional Chief Executives. However, all public 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).

Distribution of circular and further guidance

23 Public Service chief executives should forward copies of this circular to the heads of relevant public sector agencies within their Ministers' portfolios.

24 Further information on procedures during the government formation period is available as follows:

24.1 Chapter 6 of the Cabinet Manual, *Elections, Transitions and Government Formation*;

24.2 Cabinet Office Circular, *Constitutional Procedures after the Election*, CO (26) 5;

24.3 *Standards for providing information to political parties during negotiations to form a government*.

25 The Cabinet Office will issue further guidance as required during the government formation process.

Rachel Hayward
Secretary of the Cabinet and Clerk of the Executive Council

Enquiries:
Nicola Purvis, Deputy Secretary of the Cabinet (Constitutional and Honours)
Ph. (04) 831 4824
nicola.purvis@dpmc.govt.nz