



‘CARETAKER’ CONVENTIONS AND OTHER PRE-ELECTION PRACTICES

2015 GENERAL STATE ELECTION

Successive Commonwealth and State Governments have accepted over the years that special arrangements apply in the period immediately before an election. In particular, in the period following the dissolution of the lower house of Parliament, the Government assumes a ‘caretaker’ role.

For the 2015 election, the official caretaker period will commence on 6 March 2015.

The caretaker period runs from 6 March 2015 until either the election result is clear (if the current Government is returned) or the new Premier is commissioned to form Government (if there is a change of Government).

The conventions regarding this caretaker period recognise that, following the dissolution of the lower house, the Executive Government cannot be held accountable to the Parliament in the normal manner.

The conventions also recognise that every general election carries with it the possibility of a change of government and, therefore, that significant decisions that would bind an incoming Government and limit its freedom of action should be avoided.

In addition to the formal caretaker conventions, there are other established practices that apply in the lead up to the election. Many of these are directed toward protecting the political neutrality of the public service and ensuring that public resources are not misused for party political purposes.

Some of these practices apply from particular dates (for example, the quarantine period for government advertising commences two months before the election). For most, however, there is no precisely defined time at which observance is required. It would be prudent to assume that all pre-election practices should generally be observed in the months leading up to the election, after the last sitting day of the Legislative Assembly before the election.

In this guidance, the pre-election period refers to the period from 20 November 2014 (after the Legislative Assembly ceases to sit) until the commencement of the caretaker period on 6 March 2015.

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1. THE CARETAKER CONVENTIONS

1.1 The Caretaker Period

The caretaker period begins at the time the Legislative Assembly is dissolved. For the 2015 general election, the Legislative Assembly is due to expire on **Friday 6 March 2015**. The caretaker period begins at the beginning of that day.

The expiry of the caretaker period depends on whether the current Government is returned or there is a change of Government. The caretaker period ends when:

- (a) if the current Government is returned – the election result is clear, or
- (b) if there is a change of Government – the new Premier is commissioned to form a Government.

1.2 The Caretaker Conventions

During the caretaker period, the routine business of government should continue.

The general rule, however, is that no significant new decisions, appointments or contractual commitments should be made.

Significant new decisions

The convention is that the Government does not make significant policy decisions during the caretaker period that are likely to commit an incoming Government. This does not, of course, restrict the ability of the party in government to announce new policies that it proposes to implement if returned to government.

Significant appointments

The convention is that, wherever possible, the Government avoids making significant appointments during the caretaker period.

When considering whether an appointment qualifies as 'significant', consideration should be given to such matters as the seniority, importance and profile of the position, the duration of the appointment, the manner in which the appointment is to be made (for example, whether the appointment is made by the Minister or the Governor), and also whether the proposed appointment is likely to be controversial.

Where possible, significant appointments should be deferred until after the caretaker period. In circumstances where an appointment must be made, consideration should be given to making an acting appointment or a short-term appointment that would expire (and could be renewed with an extended term) shortly after the end of the caretaker period.

Major contracts and agreements

The convention is that the Government avoids entering major contracts or agreements during the caretaker period.

When considering whether a contract or agreement qualifies as 'major', relevant considerations include such matters as the dollar value of the commitment, the content and extent of other financial and non-financial obligations, and the duration of any commitments. Contracts which are likely to be politically contentious should particularly be avoided.

The entry into contracts that merely involve or continue routine matters of administration are not prohibited in the caretaker period.

The caretaker convention also does not prevent the Government taking action that it has already committed to and announced prior to the caretaker period commencing (for example, where tenders for a specified contract had already been called for prior to the commencement of the caretaker period).

The convention that the Government avoids entering major agreements during the caretaker period extends to intergovernmental agreements. If any intergovernmental meetings or negotiations are held during the caretaker period, the Government will ordinarily adopt observer status.

1.3 Compliance with the Caretaker Conventions

The caretaker conventions are not black-letter law, and their application to individual cases requires judgment and common sense. The Department of Premier and Cabinet (DPC) is available to provide advice and assistance to agencies and Ministers should any difficulties arise in the application of the conventions to particular circumstances.

It is acknowledged that, in rare cases, it may be necessary for legal or practical reasons to make a significant decision or appointment or to enter into a major contract during the caretaker period.

This may be more likely if the caretaker period continues for a significant time after an election, for example because the election result remains unclear or there is a hung Parliament.

In those circumstances, and if short-term interim arrangements are not feasible or appropriate, consideration may need to be given to the Minister consulting with the Opposition before any action is taken that would bind a future government.

1.4 Preparation for the Caretaker Period

Given the fixed-term nature of New South Wales' Parliaments, Ministers and agencies usually know in advance when the caretaker period will commence.

Accordingly, apart from unforeseen matters arising, it should be possible in most cases to take steps to avoid situations during the caretaker period that would require the making of any significant decisions or appointments, or the entry into major contracts or agreements.

That said – and although the conventions only apply during the caretaker period – it is accepted that care should also be taken throughout the entire pre-election period. In particular, the Government should generally be circumspect at any time in the lead-up to the election before making any significant decision that may be politically contentious and would bind a future Government.

1.5 Application of the Caretaker Conventions to other entities

The caretaker conventions developed primarily in the context of the relationship between Ministers and their departments. The relationship between Ministers and other bodies, such as State-owned corporations and statutory authorities, varies.

Nevertheless, all agencies should generally observe the conventions and the other pre-election practices, unless, for example, to do so would conflict with their other obligations.

2. THE PRE-ELECTION PERIOD

In addition to the formal caretaker conventions described above, there are other established practices that apply in the lead up to the election.

Many of these are directed toward protecting the political neutrality of the public service and ensuring that public resources are not misused for party political purposes.

Some of these practices apply from particular dates (for example, the quarantine period for government advertising commences from 26 January).

For most, however, there is no precisely defined time at which observance is required. It would, however, be prudent to assume that all of the pre-election practices should generally be observed in the months leading up to the election, and particularly once the Legislative Assembly has ceased sitting for the last time before the election.

In this paper, this period after the last sitting day of the Legislative Assembly (20 November 2014) is referred to as the pre-election period.

3. THE ROLE OF THE PUBLIC SERVICE IN THE PRE-ELECTION AND CARETAKER PERIODS

3.1 Operation of agencies

Agencies continue to operate during both the pre-election period and the caretaker period, dealing with the ordinary business of government.

Whilst agencies are concerned at all times to avoid partisanship, the circumstances of an election campaign require special attention to the need to ensure the impartiality and

apolitical nature of the public service, and its continuing ability to serve whatever government is elected.

Ministers should take particular care to ensure that they do not compromise the neutrality of the public service in the lead up to an election. Ministers may continue to request factual material from agencies, including during the caretaker period, and the purpose to which such material is to be put is a matter for the Minister to determine. Material concerning the normal day-to-day business of government should also continue to be supplied to Ministers in the usual way.

Agencies should, however, generally not be asked to provide policy advice during the caretaker period. There might, however, be circumstances where issues arise that clearly require advice to be given to Ministers in order to enable the Government to respond appropriately in the public interest.

3.2 Correspondence

During the pre-election period, Ministers and agencies should continue to attend to essential correspondence in the usual way.

Once the caretaker period commences, Ministers will usually avoid signing any correspondence other than that which it is necessary for them personally to sign in that period. Some correspondence that would ordinarily be signed by Ministers may need to be prepared for signature by agency officials, rather than be left to accumulate.

Otherwise, correspondence may be attended to by agencies in the usual way.

When preparing replies, care should be taken to protect the public service from any perception of partisanship. Replies should not assume that the Government will or will not be returned to office. References to any post-election matters should refer in neutral terms to the "incoming Government".

3.3 Consultation with non-Government Members of Parliament

It is accepted custom and practice in New South Wales that Members of Parliament and/or their staff are to contact the appropriate Minister or Minister's office whenever seeking information on particular issues. Alternatively, a written request is made to the head of the agency concerned.

In the pre-election period, the following particular practices also apply:

- Any consultation that non-Government members wish to undertake with agency officials is to be initiated through the relevant Minister's office. The relevant Minister is to notify the Premier of any request and whether it has been granted. Agency officials should not initiate any consultation.
- The subject matter of discussions should generally be about the machinery of government and administration. Agency officials may comment on the practicalities of

implementing and administering the policies that have been proposed by the relevant member. Agency officials are not to discuss Government policies or offer opinions on matters of a party political nature.

- The detailed substance of the discussion is to be kept confidential between the agency officials and the member(s) with whom they meet. Ministers are, however, entitled to be informed that the discussions have taken place and to seek assurances that the discussions were kept within the agreed purposes.

3.4 Requests to visit premises and facilities

In accordance with usual practice, requests by Members of Parliament to undertake visits of Government premises or facilities, such as gaols and schools, should be initiated formally through the relevant Minister or Minister's office.

These requirements do not, however, apply to a Member of Parliament in respect of his/her electorate. In those circumstances the Member may communicate directly with branches of agencies located within their electorate and arrange visits by direct contact with the local agency official in charge.

Where Members or candidates (other than the Premier or Ministers) seek to visit premises or facilities, agencies should as far as possible be even-handed in their responses and assistance.

Any such visits or inspections must also not be allowed to unreasonably disrupt the normal operations of the agency concerned.

3.5 Hospitality

Agencies should exercise care in hosting official functions during the pre-election period, and particularly during the caretaker period, to avoid any perception that the function is for electioneering or party political purposes.

In the case of official functions held during the caretaker period involving the use of agency resources at which a Minister will be present, it may be appropriate for the Opposition spokesperson to also be given the opportunity to be present to avoid perceptions of partisanship.

3.6 Requests to use agency facilities for electioneering purposes

Government agencies, and public transport agencies in particular, may grant permission to allow candidates and other party representatives to hand out election material at public facilities. Advice will be provided to political parties concerning such arrangements.

Generally, such access will be permitted only in 'unpaid areas' (that is, areas of a facility where an individual does not require a valid ticket). Access will be conditional on not interfering with operations or restricting public access, and complying with directions of agency staff.

3.7 Non-participation in political activities

In accordance with usual practice, senior agency officials who are required to comment publicly on official matters should confine their responses to factual information. The expression of opinions on policies, decisions or proposals should be avoided. This applies at all times, but especially in the pre-election period.

Public sector employees (other than Ministerial Office staff) must never engage in activities of a party political nature whilst on duty.

Employees should have regard to their agency's code of conduct in relation to any political activities undertaken when not on duty. The general rule is that employees must ensure that any participation in party political activities in their private time does not conflict with their primary duty as a public employee – of serving the government of the day in a politically neutral manner. They must also ensure that when speaking on political matters whilst not on duty, they are not identified in any way as acting or speaking in their capacity as a public sector employee.

Employees wishing to contest the State election should read Circulars C2013-04 and PSCC 2013-03 (*Contesting elections*).

4. GOVERNMENT INFORMATION

4.1 Government Advertising

Under the *Government Advertising Act 2011*, no government advertising campaign may be carried out after 26 January 2015, subject to limited exceptions for service announcements and other matters. Further information is available at www.advertising.nsw.gov.au/advertising

4.2 Internet and electronic communications

Agencies should ensure that their websites do not contain material that could be seen to compromise the neutrality of the public service or would involve agency resources being used for electioneering or partisan political purposes. Agencies may need to review their websites at the beginning of the caretaker period.

Agencies should generally not add new material to their websites during the caretaker period, except where it is clearly in the public interest to do so and there is no risk that the material could be interpreted as promoting a particular party or its policies.

Where an agency maintains an interactive function on its website (for example, public discussion groups), and the function needs to continue in operation during the caretaker period, it would be appropriate to include a statement indicating that the site will be moderated during the caretaker period to ensure that political material is not placed on the site and, if any such material is posted, that it will be promptly removed.

The Department of Premier and Cabinet (Ministerial and Parliamentary Services) will continue to provide IT (including email services) to Ministers throughout the election period. Ministerial websites will also continue to be maintained.

As a general rule, during the caretaker period, Ministers should not seek to publish media releases or other material on agency or agency-maintained Ministerial websites. This does not prevent releases or notices being published on matters of administration or operational information that is time-sensitive and in the public interest (for example, public health warnings).

A statement may be included on Ministerial websites indicating that election-related material is not available from that site, and a statement or a link may be included that refers those who are seeking such material to the Government party's website.

4.3 Access to Government information

Agencies (including Ministers' offices) can continue to receive and deal with applications from members of the public, including journalists and Members of Parliament, for access to information under the *Government Information (Public Access) Act 2009* during the caretaker period.

The Act expressly provides that an agency is not subject to the direction and control of any Minister in dealing with a particular access application. During the caretaker period, agencies should therefore continue to deal with access applications in accordance with their obligations under the Act.

5. CABINET, THE EXECUTIVE COUNCIL AND LEGISLATION

5.1 Cabinet

Meetings of Cabinet and Cabinet committees are generally not scheduled during the caretaker period, although this is ultimately a matter for the Premier. If Cabinet does meet, any deliberations will be subject to the caretaker conventions (see section 1.2).

5.2 Executive Council

It is the practice for the Executive Council to meet immediately before the commencement of the caretaker period to approve any proposed regulations. The Executive Council may otherwise meet as required, including if necessary during the caretaker period, to consider routine matters of Government business.

5.3 Legislation

Bills that have passed through Parliament will be assented to by the Governor before the caretaker period commences.

Legislation which commences on proclamation should generally be proclaimed to commence before the caretaker period. Proclamations to commence legislation on a date

falling during the caretaker period or after the election will ordinarily be deferred until after the caretaker period has ended.

6. ELECTION PROMISES COSTINGS

6.1 Parliamentary Budget Officer

Under the *Parliamentary Budget Officer Act 2010*, a Parliamentary Budget Officer has been established as an independent officer of the Parliament.

The appointment of a Parliamentary Budget Officer is to take effect as soon as practicable after 1 September of the year immediately before the general election.

The Act provides for the Premier, leader of the Opposition or other parliamentary leaders to request the Parliamentary Budget Officer to prepare costings of their parties' publicly announced or proposed policies.

Generally, election promises costings will be able to be requested at any time after the Parliamentary Budget Officer has been appointed and its operational plan has been approved by the Presiding Officers and tabled.

Under the Act, the Parliamentary Budget Officer is required to prepare a budget impact statement for each party in respect of all policies that have been costed by the Parliament Budget Office. The budget impact statements are required to be publicly released on the fifth last day before the election.

6.3 Other advice from agencies

In accordance with usual practice, Ministers can generally seek factual advice from agencies at any time, including about the likely cost of implementing alternative policies. Any such advice, even if obtained from Treasury, does not constitute a costing for the purposes of the Charter of Budget Honesty.

7. AGENCY PREPARATIONS FOR AFTER THE ELECTION

7.1 Policy development

Agencies can, during the pre-election period (including the caretaker period), continue to work internally on proposals and policy development that could, if approved by the post-election government, be implemented after the election.

Particularly where a proposal is not controversial and is likely to proceed irrespective of the election outcome (for example, statutory reviews), agencies should take the necessary steps to ensure that they will be in a position to advise the post-election government on the proposal and, if approval is given to do so, to proceed to implement the proposal after the election.

Agencies can also begin to prepare contingency briefing papers and plans for the publicly announced policies of the Government and the Opposition, to present to incoming Ministers after the election.

7.2 Incoming Ministers Folders

In the lead-up to the election, the Secretary of the Department of Premier and Cabinet will issue a memorandum requesting all Departmental Secretaries to prepare and collect together incoming Ministers' folders for agencies within their clusters.

Two sets of folders are usually prepared – the first for the Government should it be returned, and the second for the Opposition should it be invited to form Government.

These folders are prepared for submission to Cabinet. Both sets of folders should be lodged with the Cabinet Secretariat *before* the election, for submission to Cabinet *after* the election.

Depending on the outcome of the election, either the Government or Opposition folders will be submitted to the post-election Cabinet. By convention, the other set of folders is not made available to the incoming Government.

7.3 Election commitment schedules

Agencies will also be asked to contribute to the preparation of election commitment schedules, again for both the Government and the Opposition. Depending on the election outcome, the relevant schedule will become a key tool for identifying and managing the agency's priorities post-election.

8. CABINET DOCUMENTS AND OTHER STATE PAPERS

8.1 Categories of documents

This guidance note includes discussion of three categories of documents:

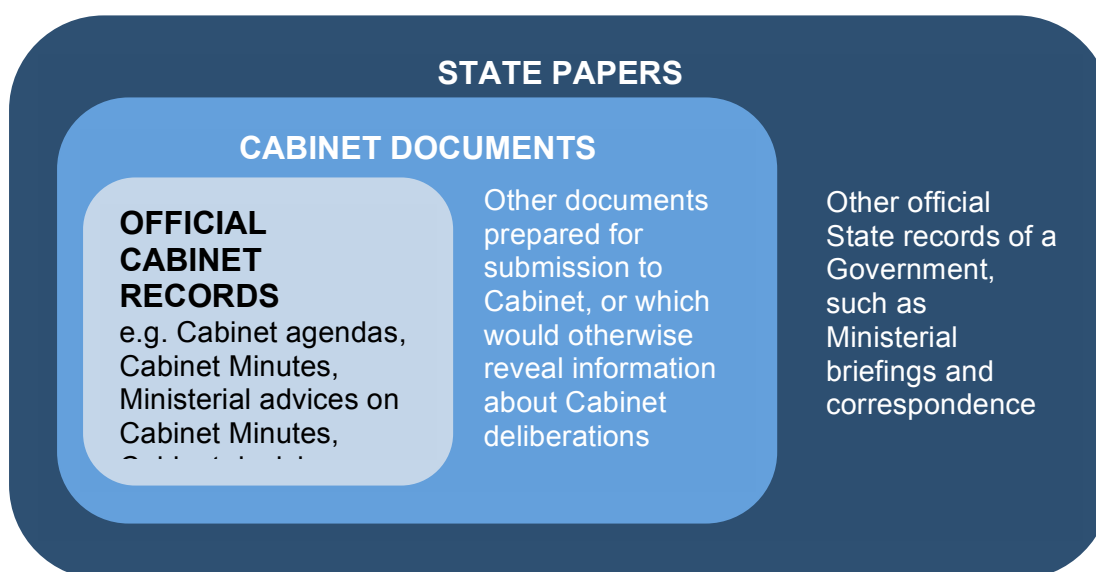
(a) Official Cabinet records

Official Cabinet records include Cabinet agendas, Cabinet Minutes, Ministerial advices on Cabinet Minutes, records of Cabinet meetings and attendances, and records of Cabinet decisions.

The custodian of official Cabinet records is the Cabinet Secretariat in the Department of Premier and Cabinet. Copies of official Cabinet records of the current Government are made available to Ministers and agencies on an as-needed basis, on the condition that they are kept confidentially and securely, that they are not copied, and that they are not destroyed (they can be returned to Cabinet Secretariat when no longer required).

(b) *Cabinet documents*

Official Cabinet records are one type of Cabinet document. Other documents, including drafts of documents, that are prepared for submission to Cabinet (whether or not they have in fact been submitted) are also a type of Cabinet document that are subject to some of the conventions and practices outlined below, including in particular the convention of Cabinet confidentiality. So too are other documents that contain material that would tend to reveal information about Cabinet deliberations or the position taken, or proposed to be taken, by Ministers in Cabinet.



(c) *State papers*

State papers refers to the broader category of official records of a Government. They include official Cabinet records and other Cabinet documents. They also include such materials as briefs and advices to Ministers, as well as correspondence.

8.2 Record keeping obligations

Retention of State papers

All State papers, including Cabinet documents, must be handled in accordance with State record keeping and retention obligations, policies and practices. Agencies and Ministers' offices should take steps before the election to ensure that any State papers they hold that are no longer required for immediate use have been properly filed, returned to the relevant agency to be filed, or are otherwise dealt with in accordance with those requirements.

Under the *State Records Act 1998*, every Department, Ministerial office and other public office has a duty to ensure the safe custody and proper preservation of the State records

that it has control of. Other than as provided for under the Act, it is an offence for any person to abandon or dispose of a State record.

Return and lock-down of official Cabinet records

At the commencement of the caretaker period, the Secretary of the Department of Premier and Cabinet will issue a circular directing all Ministerial offices, Departments and other agencies to return to the Cabinet Secretariat any copies they may still hold of official Cabinet records.

These copies will be required to be returned by no later than the Friday immediately before the State election, to be held securely by Cabinet Secretariat until the result of the election is known. Access to the electronic Cabinet Document Management System will also be suspended at this time.

In the event that the current Government is returned, the copies will be returned to the relevant offices and agencies as required.

In the event that there is a change of Government, the official Cabinet records of the previous Government will be kept by the Cabinet Secretariat for permanent, confidential and secure retention. Duplicates that are surplus to record-keeping requirements may be marked-off and destroyed by Cabinet Secretariat in accordance with relevant retention policies.

Other Cabinet documents that may be held by agencies (such as draft submissions prepared by Departments and other papers that reveal Cabinet deliberations) should be kept in accordance with the agency's record-keeping obligations, policies and procedures.

8.3 The convention of Cabinet confidentiality

It is a central and longstanding convention of the Westminster (English) system of responsible Government that Cabinet documents, and especially official Cabinet records, are kept strictly confidential.

Amongst other things, this convention supports collective Ministerial responsibility, which means that all Government decisions are considered to be made by Cabinet as a whole, with all Ministers jointly responsible for the decisions of Cabinet (including committees), irrespective of any individual views. Cabinet confidentiality enables there to be full and frank advice, discussion and deliberations, while maintaining the principle of Cabinet solidarity.

Access to official Cabinet records is governed by strict protocols to ensure confidentiality and security. Access may only be granted by the Cabinet Secretariat. Where a copy of an official Cabinet record is approved, an authorised copy may be produced and issued either in hard copy or through the electronic Cabinet Document Management System (CDMS). Copies of official Cabinet records are numbered to identify recipients.

Other Cabinet documents are also held subject to Cabinet confidentiality.

Further information about the convention of Cabinet confidentiality is set out in Premier's Memorandum M2006-08 (*Maintaining Confidentiality of Cabinet Documents and Other Cabinet Conventions*).

8.4 Access to papers of a previous Government

Access by a returning Government

If the Government is returned at the election, the post-election Cabinet can continue to access pre-election Cabinet records and other State papers on a business-as-usual basis.

Access by an incoming Government

By convention, the Government of the day does not seek access to the State papers, and especially to the Cabinet documents, of a previous Government of a different political party. There are three categories of papers that are generally regarded as not covered by the convention:

- (a) papers which can reasonably be considered to already be in the public domain, such as non-confidential letters sent by former Ministers to members of the public, Members of Parliament (in their capacity as representatives of a particular electorate), or non-government organisations;
- (b) inter-governmental communications (other than personal messages); and
- (c) formal legal opinions of the Solicitor General, the Crown Solicitor and other law officers (except where the advice itself concerns, and contains information that would reveal, a non-public and/or Cabinet-confidential proposal of the previous Government).

Cabinet documents are at the apex of Government decision-making and the convention that a successive Government of a different political party does not have access to the papers of the previous Government applies especially to them.

That said, for practical reasons of continuity of policy and administration, public servants may be required to present new Ministers with relevant information about existing departmental policy or past events. In preparing that information for the new Minister, it may be necessary for the agency to have regard to material contained in State papers of the previous Government, such as briefings given to the previous Minister or Cabinet documents of the former government.

It would not be inappropriate, for example, to give a new Minister a general account in a new, stand-alone brief of existing policy that was previously announced by a former Minister including, in general terms, the rationale for the previous Government's having adopted that policy. This may be done even though some of the source information is necessarily also contained in Cabinet documents or briefings that were considered by the previous Government.

In doing so, however, the new Minister should not generally be given access to the actual Cabinet documents of the previous Government or to the actual briefings that were given to the former Minister. Agencies should also avoid disclosing to the new Minister information about whether, and if so when, particular matters were submitted to or considered by the previous Minister and/or Cabinet.

Similarly, factual information that is contained in a Cabinet document of the former government, if required by the new Minister, can be provided by paraphrasing that information and presenting it in a new self-contained briefing for the new Minister. Again, the new briefing should not refer to the fact that the information was previously submitted, or considered for submission, to the former Minister or Cabinet.

Agencies can also continue to develop working papers that they may have commenced working on under the previous Government.

What is particularly critical under the convention is that the new Minister is not provided with copies of any actual Cabinet documents of the former Government, and is not otherwise provided with information that would reveal, directly or indirectly, non-public views, comments or positions taken by former Ministers or a former Cabinet.

For example, if an agency previously prepared a written briefing or report for the former Minister or Cabinet analysing or recommending a course of action in a particular field, the agency should not provide a copy of that advice or report to the new Government. The agency would not be precluded, however, from preparing a new briefing or report that contains similar analysis and advice. In doing so, the agency is also not precluded from using factual material and analysis that was developed in preparing the earlier report, provided that the agency does not reveal that this same or similar advice had already been given to the previous Minister or Cabinet.

It is important to remember that the revelation of confidential information could occur implicitly, and this too must be avoided. For example, if an agency were to reveal that particular advice was given to a former Minister, and it is a matter of public record that the previous Government had not undertaken the course of action recommended in the advice, then revealing that the advice was given to the former Minister would, by implication, reveal that the advice had been rejected (or at least not immediately accepted) by the former Government. Implicit disclosure of such confidential information should be avoided.

Access by Departments

If the Government is returned at the election, departments can continue to request access to pre-election Cabinet records as required on a business-as-usual basis.

If there is a change of Government then, for continuity of administration purposes, Chief Executive Officers may from time to time require information that has been the subject of Cabinet consideration by the previous Government. This might be necessary where, for example, access is required in respect of a legal or policy issue that has continued and

remains binding through successive government administrations, and where access to information from the official Cabinet records is required in order to continue, amend or otherwise deal with the issue.

Requests from departments to access information from official Cabinet records of past Governments may be made in the first instance to the Cabinet Secretariat. Requests should be in writing and stipulate reasons supporting the need for access. Even if the information is provided, a decision may be taken to provide only paraphrased information or supervised inspection of the record.

If such access to Cabinet documents is provided, the department should ensure that it observes the conventions set out above with respect to the provision of any information to their Minister.

Access by former Ministers

By convention, former Premiers and Ministers may request special access to copies of official Cabinet records with which they dealt personally while in office, but they may not retain copies. All such requests must be referred to the Secretary or the General Counsel, Department of Premier and Cabinet.

Access by members of the public

The *Government Information (Public Access) Act 2009* (GIPA Act) gives members of the public an enforceable right to access information held by Government agencies (including Ministers' offices), except in circumstances where there is an overriding public interest against disclosure.

In accordance with the conventions concerning Cabinet confidentiality, however, the Act stipulates that there is conclusively deemed to be an overriding public interest against disclosure of information contained in Cabinet documents (as defined in the Act), unless Cabinet itself, or the Premier as Chair of Cabinet, has approved their release.

Under the GIPA Act, the absolute protection for Cabinet documents falls away once ten years has elapsed since the calendar year in which the relevant document was created.

Cabinet documents that are older than ten years can be requested under the GIPA Act, and in that case whether or not access will be provided will depend upon the particular document in question and an assessment of the public interest considerations in favour of disclosure as well as the public interest considerations against disclosure, including an assessment as to whether the release of the document could reasonably be expected to prejudice collective Ministerial responsibility.

In accordance with past practice, where it is possible to do so, the Premier from the relevant time is consulted before Cabinet documents of his or her Government are made available to any third party, whether under the GIPA Act or otherwise.

Legal Branch of the Department of Premier and Cabinet is available to provide advice to agencies if they receive an application under the GIPA Act for access to Cabinet documents.

9. FURTHER INFORMATION

The conventions and practices described in this note have developed as a matter of custom over time. Most are not legally binding and do not constitute hard-and-fast rules. Their application to particular circumstances will often require the exercise of judgment.

Any questions concerning the application of the conventions and practices to particular circumstances should be directed to the Secretary of the Department of Premier and Cabinet.

APPENDIX – TIMELINE

Date	Event	Conventions / Practices
1 September 2014 (Monday)		Parliamentary Budget Officer to be appointed.
20 November 2014 (Thursday)	The last scheduled sitting day before the election	Pre-election period commences when the Legislative Assembly ceases to sit.
26 January 2015 (Monday)		Commencement of quarantine period on Government advertising under the <i>Government Advertising Act 2011</i> .
6 March 2015 (Friday)	Dissolution of the Legislative Assembly	Commencement of the caretaker period. Government avoids: <ul style="list-style-type: none"> - significant decisions - significant appointments - major contracts and agreements. Routine business of government continues.
23 March 2015 (Monday)	Fifth last day before the election	Budget impact statements published for election promises costed by the Parliamentary Budget Officer.
28 March 2015 (Saturday)	Election day	
	Government is returned or incoming Government is commissioned.	Caretaker period ceases.