



**ACT**  
Government

**AUSTRALIAN CAPITAL TERRITORY**

**2016 GENERAL ELECTION**

# **GUIDANCE ON CARETAKER CONVENTIONS**

**December 2015**

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## 1. Introduction

It is the accepted practice of State, Territory and Commonwealth Governments in Australia that special operating arrangements apply in the caretaker period immediately before and after an election.

During the caretaker period, the ongoing business of government service delivery and administration continues. However, successive Australian Capital Territory (ACT) Governments have followed a series of accepted practices, known as the “caretaker conventions”, which aim to ensure that their actions do not bind an incoming government and limit its freedom of action. In summary, the conventions are that the government avoids:

- making major policy decisions that are likely to commit an incoming government;
- making significant appointments; and
- entering into major contracts or undertakings.

The caretaker conventions also prescribe arrangements that reinforce the apolitical nature of the ACT Public Service by avoiding the use of Territory resources in a manner that advantages a particular party. In so doing, they also aim to prevent controversies about the role of the public service distracting attention from the substantive issues in the election campaign.

These guidelines apply to ministers, ACT Public Service Directorates, and all other ACT Government agencies and entities. All ministers and public employees are expected to uphold the caretaker conventions as set out in these guidelines, which have been endorsed by the Chief Minister.

## 2. The Caretaker Period

In accordance with the provisions of Section 100(1) of the *Electoral Act 1992* (the Electoral Act), the ACT is scheduled to hold a general election for the Legislative Assembly on Saturday, 15 October 2016.

In other jurisdictions it is accepted practice that the caretaker period commences with the dissolution of the Parliament. This reflects that, after dissolution, there is no parliamentary chamber to which a government may be held accountable. However, in the ACT, where the Legislative Assembly is not dissolved until the day of a general election, the caretaker period must be defined differently.

The ACT’s caretaker conventions apply from the beginning of the “election period” as defined by the Dictionary of the Electoral Act:

**election period**, in relation to an election, means the period -

- (a) beginning on the first day of the pre-election period; and
- (b) ending when the result of the election is declared under section 189.

The “pre-election period” is defined as:

the period of 37 days ending on the end of polling day for an election.

In these guidelines, the term caretaker period is used to describe the time between the commencement of the pre-election period and the first sitting of the new Assembly.

The *Australian Capital Territory (Self-Government) Act 1988 (Cwlth)* requires the Legislative Assembly to elect one of its members as Chief Minister on the first sitting day following a general election. The Chief Minister then appoints Ministers to form the Government.

**In 2016, the caretaker period begins on 9 September and ends with the election of the Chief Minister on the first sitting day of the Legislative Assembly following the election.**

### **3. Operations of the Government**

The ordinary business of government service delivery and administration continues during the caretaker period. However, the caretaker conventions impact on a number of areas of government administration.

#### **3(a) Policy Decisions**

The Cabinet does not normally meet during the caretaker period.

The Government should avoid taking major policy decisions likely to commit an incoming government. What constitutes a major decision is a matter of judgement, but relevant considerations include not only the significance of the decision in terms of policy and resources, but also whether the decision is a matter of contention in the election campaign.

This restriction does not affect the implementation of policy decisions taken before the caretaker arrangements came into effect, nor does it affect ongoing service delivery effort. In particular, given the timing of the expected passage of the 2016-17 Budget by the Legislative Assembly in August 2016, it is entirely appropriate that work continue on the implementation of initiatives announced and funded in that Budget.

Decisions taken before the caretaker period may be announced during the caretaker period. Care should be taken to ensure that government resources are not used to make announcements or to promote any partisan activities.

If circumstances require the Government to make a major policy decision during the caretaker period that would potentially commit an incoming government, this should be done in consultation with the relevant opposition and cross bench spokesperson.

The Government may, of course, announce during the caretaker period new policy initiatives that it proposes to implement after the election, should the Government be returned.

### **3(b) Appointments**

The Government should generally avoid making appointments (e.g. to a statutory office or a board or committee) during the caretaker period.

Ministers should:

- (i) if possible, defer the appointment until after the caretaker period;
- (ii) if an appointment needs to be made for reasons of continuity, appoint for a short term only to carry through until after the caretaker period; or
- (iii) if a short-term appointment is not practicable, appoint for the full term, following consultation with the relevant opposition and cross bench spokesperson.

### **3(c) Contracts and Undertakings**

The Government should avoid entering into major contracts or other undertakings during the caretaker period. When considering whether a contract or undertaking qualifies as major, relevant considerations include the dollar value of the commitment, and whether the commitment involves a routine matter of administration or rather implements or entrenches a policy or program that is politically contentious. A further consideration is whether the commitment requires ministerial approval.

If a major contract or undertaking cannot be deferred until after the caretaker period, the Government should seek the agreement of the relevant opposition and cross bench spokesperson before entering into the contract or undertaking. Alternatively, directorates and agencies could also explain the implications of the election to the contractor and ensure that contracts include clauses providing for termination in the event of an incoming government not wishing to proceed. Similarly, in the case of tenders, agencies should warn potential tenderers about the implications of the election and the possibility that the tender process might not be completed.

### **3(d) Ministerial Attendance at Intergovernmental Meetings**

Ministers do not generally represent the ACT in intergovernmental meetings scheduled during the caretaker period. Where possible, postponement of such meetings should be requested until after the election. If postponement is not possible, senior officials should attend the meeting in an observer capacity to ensure that the incoming government is fully informed of progress. It is appropriate for officials to brief ministers on the matters discussed and outcomes reached at such meetings during the caretaker period.

The usual practice is for the Head of Service to write to jurisdictional counterparts advising them of the timing of the election and seeking their cooperation with intergovernmental arrangements during this period.

### **3(e) Requests by Ministers of Directorates and Agencies**

Ministers may seek factual information from officials during the caretaker period, some of which may be incorporated into ministerial speeches or political publications. It is inappropriate for officials to be involved in the incorporation of this material into information of a party political nature. It is also inappropriate for officials to speculate as to the purpose to which factual information provided might be put in assessing whether or not it should be provided.

Agencies should generally not be asked to provide policy advice during the caretaker period. There might, however, be circumstances where urgent issues arise that clearly require advice to be given to Ministers in order to allow responsible agency administration or to enable the Government to protect the public interest.

To avoid controversy in the caretaker period about claimed breaches of the apolitical and impartial values of the ACTPS, it may be appropriate to also brief the opposition or to decline a request for assistance if it requires the use of significant resources.

### **3(f) Commencement of Legislation**

Legislation commences in accordance with provisions in the *Legislation Act 2001*. Most legislation commences automatically following notification in the legislation register. Generally this occurs within 14 days after being passed in the Legislative Assembly.

Where legislation requires a date to be fixed by a Minister:

- (1) A commencement date should not be fixed on a date falling within the caretaker period unless the legislation is of a routine or non-contentious nature.
- (2) A commencement date should not be fixed on a date falling after the end of the caretaker period and should be a matter addressed by the new government if such a date is necessary.

The *Legislation Act 2001* also provides for the automatic commencement of legislation 6 months after its notification date if not commenced sooner. Where legislation is to be commenced by notice given by the Minister, such notice should be given prior to 9 September 2016.

## **4. Operations of Directorates and Agencies**

During the caretaker period, the ongoing obligation on directorates and agencies to act in an apolitical manner in keeping with the *Public Sector Management Act (1994)* (the PSM Act) takes on added significance.

### **4(a) Ministerial Correspondence**

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

Non-essential correspondence, such as routine enquiries/complaints from constituents, that would ordinarily be signed by Ministers, should be prepared for signature by agency officials, rather than be left to accumulate.

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”.

### **4(b) Cabinet Documents**

Before the date of the election, the directors-general and heads of agencies must ensure that all Cabinet documents are accounted for and securely stored so that, if there is a change of government, the documents can be returned promptly to the Cabinet Office for destruction in accordance with the provisions of the *Cabinet Handbook*. Alternatively, documents may be destroyed by Cabinet Liaison Officers according to the guidelines given in the *Cabinet Handbook*, which can be found at <http://www.cmd.act.gov.au/functions/publications>.

### **4(c) Pre-Election Budget Update and Policy Costings**

The Under Treasurer is required, under Section 20C(1) of the *Financial Management Act 1996*, to prepare a pre-election budget update and provide it to the parliamentary counsel for notification at least 30 days before the polling day of an ordinary election.

The purpose of the pre-election budget update is to give the electorate an accurate picture of the Territory’s financial position before the election, and allow the assessment of the Government’s financial performance against its financial policy objectives and strategies.

The update must include budget estimates for the Territory, general government sector and public trading enterprise sector for the financial year in which the election is to be held and for each of the next three financial years.

The *Elections Commitments Costings Act 2012* prescribes a process for the leader of a registered party with one or more Members of the Legislative Assembly (MLA) or an MLA who is not a member of a registered party to request the costing of publicly

announced election commitments (section 5(1)). The costing period extends from one week after the last Assembly sitting day prior to the election and ends on the first Assembly sitting day after the election, which overlaps the Caretaker Period. This process allows for political party leaders and independent MLA's to formally request costings of their election commitments to be undertaken by public officials (Treasury) under the Act and does not otherwise affect the operation of the Caretaker Conventions or these Guidelines.

The *Guidelines for Costings of Election Commitments* are available at :  
<http://www.treasury.act.gov.au/Electioncostings/documents/Guidelines%20FINAL.pdf> .

**4(d) Incoming Government Briefs**

The Chief Minister, Treasury, and Economic Development Directorate is responsible for coordinating incoming government briefs in the lead-up to an election. One set of briefing papers will be developed for the event of a returned government, and the second for the event of a newly elected government taking office. Separate guidance on this process will be issued by the Head of Service in the lead up to the election.

**4(e) Directorate Liaison Officers**

Particular issues arise in relation to Directorate Liaison Officers (DLOs). DLOs are provided by Directorates to assist Minister's offices with necessary liaison work with Directorates, and the need for that work should be reviewed at the commencement of the caretaker period. If there is ongoing work of a liaison nature during the caretaker period, DLOs may remain with the Ministers' offices or continue their role but be located in the Directorate. However DLOs are ACTPS employees rather than *Legislative Assembly Members (Staff) Act 1989* employees. They should therefore avoid assisting Ministers in ways that could create a perception that they are being used for party political purposes.

**4(f) Consultation with Public Servants by the Opposition and Recognised Parties in the Legislative Assembly**

It is accepted custom and practice in the ACT that Members of the Legislative Assembly 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 Chief Minister 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.

**4(g) Publications and Advertising Campaigns**

During the caretaker period, directorates must continue to adhere to the provisions of the *Government Agencies (Campaign Advertising) Act 2009*. Directorate and agency publications and advertising material should proceed only if they constitute a normal operational requirement of ongoing and uncontroversial service delivery (e.g. public health announcements or road closure notices). In such cases, publications or advertising material should not include photographs and/or statements of a minister.

At the beginning of the caretaker period, individual directorates should review arrangements for the distribution of printed material, including any internal or external newsletters. In particular the "Our Canberra" newsletter should not be produced during the caretaker period. Directorates should avoid active distribution of material during the caretaker period if it promotes Government policies or emphasises the achievements of the Government or a Minister. Passive distribution of material, such as continued placement in directorate offices or in response to requests, is acceptable.

Directorates and agencies should carefully monitor their media releases during the caretaker period to ensure that the material is of public interest, relates only to the day-to-day business of the directorate or agency, and cannot reasonably be construed as being for political purposes.

There are strict requirements governing the publication of “electoral matter”. In the case of government agency publications, these do not require authorisation as electoral matter if they include as a minimum on the cover and/or title page the agency name and the ACT Government logo or:

- the agency name;
- the City of Canberra Arms (i.e. the Canberra Coat of Arms); and
- the words ‘Australian Capital Territory’, ‘Australian Capital Territory Legislative Assembly’, ‘ACT Legislative Assembly’, ‘Australian Capital Territory Government’ or ‘ACT Government’.

Further guidance can be obtained from the ACT Electoral Commission’s website, at: [http://www.elections.act.gov.au/education/act\\_electoral\\_commission\\_fact\\_sheets/fact\\_sheets\\_-\\_general\\_html/elections\\_act\\_factsheet\\_authorising\\_electoral\\_material](http://www.elections.act.gov.au/education/act_electoral_commission_fact_sheets/fact_sheets_-_general_html/elections_act_factsheet_authorising_electoral_material) and [http://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0012/1812/AuthorisingElectoralMaterial.pdf](http://www.elections.act.gov.au/_data/assets/pdf_file/0012/1812/AuthorisingElectoralMaterial.pdf)

#### **4(h) Government Use of Electronic Communication**

Agency websites may retain material placed on the website before the commencement of the caretaker period in most cases. Agencies should check the wording on their websites to ensure that they cannot be interpreted as promoting a Government policy. Agencies should add only the following material to their websites during the caretaker period:

- announcements of a routine, apolitical nature;
- purely factual material; and
- information on existing policies and programs.

Media releases with overtly partisan content, announcing new policy, or criticising non-government parties must not be posted to government websites during the caretaker period.

If agency websites contain links to websites outside the act.gov.au domain, agencies should consider the need for clear exit messages.

In order to avoid the need for authorisation as electoral matter, agency websites must conform to the requirements in the *Electoral Act 1992* for government publications, as outlined above under “Publications and Advertising Campaigns”.

Electronic bulletin boards and email systems provided by agencies must not be used to publish or distribute political material. Material from political parties and how-to-vote material must not be displayed.

Any interactive functions of websites within the act.gov.au domain such as discussion groups, chat rooms or blogs which allow unmoderated comment or debate should be moderated during the caretaker period. Words along the following lines might be appropriate: “In the period preceding an election for the

ACT Legislative Assembly, the ACT Government assumes a caretaker role. It is important during that time that ACT Government resources are not used to communicate political material. As this website is hosted by the [directorate/agency], the site will be moderated from the beginning of the Caretaker Period on 9 September 2016 until after the election to ensure that political material is not placed on the site.”

#### **4(i) The Use of Government Agency Premises**

There may be occasions where agency premises can appropriately be used during the caretaker period by political parties for public events, such as media conferences, or where they are the obvious place for a function. In the case of official functions involving the use of directorate agency resources, relevant non-government spokespersons should be given the opportunity to be present.

It is not appropriate that the use of agency premises extend to such activities as engaging public servants in political dialogue, or using public servants for logistical support for political functions. Nor should the use of premises unreasonably disrupt the normal operations of the offices concerned.

ACT Government premises may be used as the backdrop for political advertising or policy material by government and non-government parties (e.g. photography or filming) provided that no official resources are utilised, and the operations of the site are not unreasonably impacted. It is important that the impartiality of ACT public servants is not compromised through their appearance in party political material of this sort. With this in mind it may be more appropriate for actors to be used in place of officials.

#### **4(j) Approval of Grants**

During the caretaker period, commitments must not be made in respect of grant applications received during the period or which were lodged before commencement of the period but are awaiting decision.

The payment of grants approved prior to the caretaker period can proceed but should be forwarded by the directorate or agency rather than by a minister or another member of the Government.

#### **4(k) Response to Parliamentary Committee Reports**

Responses to outstanding parliamentary committee reports should be taken up with the incoming government. Agencies may, however, undertake appropriate preparatory work and consultation at the agency level so that they are in a position to provide early advice to the incoming government.

#### **4(l) Annual Reports**

The *Annual Reports (Government Agencies) Act 2004* contains specific provisions about tabling and presenting annual reports in an election year. In 2016, Annual Reports will be provided to Ministers in the usual three months timeframe from the

end of the Financial Year, but will not be tabled until the second sitting day of the new Assembly.

This means that Annual Reports will need to be provided to the relevant Minister by 6 October and to the Speaker by 13 October. However, the Office of the Legislative Assembly will keep the tabling copies of each Annual Report until they are tabled after the election.

Annual reports must be published on Directorate internet sites from 13 October 2016 (the date on which reports are provided to the Speaker).

The Government Solicitor's Office has advised that any extension of time for providing Annual Reports should be sought before the last day of sitting prior to the caretaker period. Accordingly, approval for an extension of time to provide an Annual Report should be sought by the relevant Minister from the Chief Minister by 19 August 2016.

Guidance is available in the Chief Minister's Annual Reports Directions for 2015-16, which are available on the Legislation Register at:

<http://www.legislation.act.gov.au/ni/2015-207/default.asp>

#### **4(m) Public Sector Ethical Requirements**

The general obligations of public employees are prescribed in section 9 of the *Public Sector Management Act 1994* (PSM Act). During the caretaker period, the usual obligations on officials continue to apply, but the levels of scrutiny are likely to be higher.

Officials need to exercise judgement if they are scheduled to speak at public functions during the caretaker period. In the case of controversial issues, officials should decline invitations to speak. In the case of non-controversial, officials may speak, but should explain that the Government is in caretaker mode and that they will limit their statements to factual issues and matters of administration. Officials should avoid publicly explaining or promoting policies during the caretaker period.

Public sector agencies, public employees and members of Government boards and committees must consider numerous ethical issues during the caretaker period with regard to their operations and conduct. These issues might relate to real or perceived conflicts of interest, the public perception of impartiality in their operations and conduct, and the participation of individuals in political campaigning.

Appendix 1 provides advice on appropriate standards of conduct for public sector officials seeking to actively participate in the political process.

## 5. Further Information

Where ministers require further clarification of these guidelines, they should seek advice from the Chief Minister.

Where directors-general require further clarification of these guidelines, they should seek advice from the Head of Service or Commissioner for Public Administration.

General inquiries regarding the caretaker period arrangements and their application can be directed to:

Director, Public Sector Management  
Workforce Capability and Governance Division  
Chief Minister, Treasury, and Economic Development Directorate  
Telephone 6205 0296  
email: [psm@act.gov.au](mailto:psm@act.gov.au)

Kathy Leigh  
Head of Service

Bronwen Overton-Clarke  
Commissioner for Public Administration

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# Appendix 1 - GUIDELINES FOR THE BEHAVIOUR OF PUBLIC EMPLOYEES WISHING TO PARTICIPATE ACTIVELY IN THE POLITICAL PROCESS

## Purpose

1. These guidelines will assist ACT public sector agencies, public employees and members of Government boards and committees in respect of their obligation to act impartially, particularly during the ACT pre-election period. These guidelines are applicable to all ACT public employees including statutory office holders.

## Application

2. This guidance applies to all public employees including Executives and Board and Committee Members.

## Principles

3. Public servants as members of the community have a right to political expression and participation. At the same time, they are servants of the executive and the community must have public confidence in the integrity, impartiality and political neutrality of the ACTPS.

4. Public Employees

A 'public employee' is defined in the *Public Sector Management Act 1994* as a person -

- (a) employed in the Service; or
- (b) employed by a Territory instrumentality or a statutory office holder.

5. Conflicts of Interest

Public employees are able to join a political party, engage in political debate or in non-political community activity except where these activities impact adversely on their ability to perform their official duties and/or place them in conflict with the general obligations of public employees in section 9 of the *Public Sector Management Act 1994* (PSM Act).

6. A conflict of interest may be actual or perceived. An apparent conflict of interest may exist if a public employee's private interests appear, on reasonable grounds, to influence the performance of their official duties - even though there is no actual influence.

7. While all elements of section 9 of the PSM Act apply, the particular focus in the context of an upcoming election is whether political involvement places the public employee at risk of an actual or potential conflict of interest. Importantly, section 9 (b) of the PSM Act requires a public employee to act impartially. Under the PSM Act, public employees must disclose and deal with any conflict of interest, either real or perceived. The conflict must be resolved having regard to the primary importance of the public duty of public employees. Active campaigning (including for another person or a party) and particularly nomination as a candidate would usually raise a real or perceived conflict for most public employees.
8. Resignation and Campaign Leave for Election Candidates
9. Resignation is one option for a candidate to avoid any suggestion that they have failed to fulfil their duty as a public employee. Refer to paragraph 24 below for information on resignation and re-appointment provisions.
10. Campaign leave, or the use of recreation or long service leave entitlements may be granted to election candidates.
11. A Director-General may grant Campaign Leave, which is without pay, under the provisions of the relevant enterprise agreement to enable an officer or employee who is employed under the PSM Act to campaign for election. The maximum period of leave that may be granted for this purpose is three months. The period of leave does not count as service for any purpose.

#### Role of Manager

12. Where a Manager is concerned that there may be, or may appear to be, a conflict between an employee's duties and their involvement in political activities, the issue should be discussed with the employee. Managers are responsible for resolving any issues about the status of public employees who are taking a politically active role in the election, in particular those public employees who are election candidates.
13. The circumstances of each situation, such as the seniority of the position held by the candidate, the prominence of their government job in the community, their duties and capacity to influence Government decision-making, must be considered by the relevant Manager. Importantly, the Manager should consider whether:
  - the conflict or perceived conflict impairs the public employee's ability to exercise impartial decision making or maintain public confidence in decision making;
  - the campaign involves improper use of information obtained through official duties or is unauthorised public comment; and
  - the campaign involves the use of any official facilities, including the candidate's time during work hours.

14. Where a conflict is identified, the Manager must ensure that the public employee either:
- ceases involvement in the conflicting interest or activity, in this case the political campaigning or other political activity; or
  - withdraws from the specific conflicting work interest, activity or task and takes action to separate themselves from the relevant work area or duty.
15. In many cases the only way that a real or perceived conflict can be resolved for an election candidate is for the public employee to undertake other duties (this should be undertaken in conjunction with the relevant HR area) take leave or resign. There are special re-employment and re-appointment powers in respect of unsuccessful election candidates who are employed under the PSM Act who resign to contest the election (refer to paragraph 24 below).
16. A public employee who wishes to campaign on behalf of a candidate or a political party may apply for leave. Approved leave will to some extent address the issue of impartiality and the use of the public employee's work time or official facilities. Furthermore, it will also demonstrate that the public employee has taken some steps to separate political activity from their public service duties, particularly during the pre-election period.
17. A public employee who wishes to contest the election or campaign on behalf of a candidate or political party should submit a formal application for approval for secondary employment. This will enable a comprehensive assessment of potential conflicts and appropriate remedial action to be taken.

#### Executives and full-time holders of public office

18. Executives and full-time holders of public office are senior officials who hold special positions in Government employment and in the community in general. Executives and full-time office holders have a significant capacity to influence Government decision-making. For these public employees who are, or are intending to be, election candidates there is no other appropriate course than to resign. Executives are able to seek re-appointment if they are unsuccessful candidates at the election (see paragraph 24)..
19. An executive or full-time holder of public office should carefully consider whether it would be appropriate to become involved in political campaigning for another person or a party. In such circumstances the use of leave may not be a satisfactory resolution to the apparent conflict given the principles of impartiality and political neutrality that are essential elements of an executive's relationship with the Government.
20. Executives should take the opportunity to update their Declarations of Private Interests if they intend to contest the election or campaign on behalf of a candidate.

## Candidates

21. Subject to other requirements of public employees set out above, a public employee may be a candidate for election to the Legislative Assembly. However, sections 103 and 104 of the *Electoral Act 1922* (Attachment A) provide that a person is not qualified to take a seat if they hold public office or employment.
22. Candidates for election to the Assembly are provided with information by the ACT Electoral Commission. This includes advice that it is necessary for public employees to resign under the *Electoral Act 1992* before the official declaration of results if they have been successfully elected after the count of votes. The Electoral Commissioner suggests that candidates seek their own advice on whether resignation is necessary in their particular case and the appropriate time to resign.
23. Public employees seeking to contest elections other than those for the ACT Legislative Assembly should investigate whether similar restrictions exist in the relevant jurisdiction. In particular candidates for the Federal election must resign before they are nominated due to constitutional eligibility requirements.
24. Public employees employed under the PSM Act who resign to contest an election, and are not elected, may be re-employed in or re-appointed to the ACT Public Service under sections 111 or 118 of the PSM Act. To be re-employed or re-appointed, the former public employee must have resigned no earlier than six months before nominations for the election closed (21 September 2016, so any resignation for these purposes must occur on or after 22 March 2016), been an unsuccessful candidate and applied for re-employment or re-appointment no later than two months after the election result has been declared.

## Public Comment and Disclosure of Official Information

25. Public employees may participate in a private capacity in public discussions and debates about community issues. However, public employees have a duty to consider whether personal comments and statements could:
  - be mistaken for an official comment;
  - involve the use of official information not publicly available;
  - constitute a conflict of interest; or
  - undermine public confidence in the employee's ability, or that of their agency, to carry out official functions fairly and impartially.
26. Under Section 9 of the Public Sector Management Act 1994, a public employee must not disclose information obtained during the course of their duties unless they:
  - do so in the course of duties and have the proper authority to do so;
  - are required to do so by law; or
  - are giving evidence in court.

### Fund Raising and Canvassing

27. Where a public employee chooses to become involved in campaigning for candidates for political office (for example, by handing out how-to-vote information or other canvassing for votes) then they should avoid giving any impression that such activities are undertaken other than in a private capacity. They should not, for example, wear an ACT Public Service uniform or display work related material.

### Wearing of Party Political Badges, or other Display of Political Material

28. It is generally not appropriate to display political badges or other material at work. Public employees should be aware of their responsibility to contribute to a harmonious working environment and the display of political material while on duty or at work has the potential to disrupt those relationships and undermine public confidence in public service impartiality.
29. Where a public employee's duties involve public contact, the displaying of political material at work is inappropriate as this is likely to create the impression of official endorsement of the political material or, in some circumstances, create doubt as to whether certain matters are being dealt with in a politically neutral manner.

### Use of Official Facilities and Equipment

30. Public employees must not use official facilities for promotion of any political party. The use of official facilities includes use of meeting rooms, the use of government telephones, facsimile machines, e-mail, computers and photocopiers. Any electioneering activity or other political activity that involves expense to an agency is likely to constitute a breach of section 9 of the Act.

### **Government boards and committees**

#### Conflict of interest

31. Members of boards and committees should provide an undertaking that they are not subject to a conflict between their personal or financial interests and those of the board or committee. In these circumstances, the member undertakes to advise the Chairperson or the Minister immediately if a real or perceived conflict of interest occurs during the membership. Pre-election political activity by a board member may create a conflict of interest. In such circumstances it would generally be expected that the member either resign or stand down for the duration of the election campaign.

## Candidates

32. Refer to paragraphs 22 and 23 above as similar arrangements apply for board and committee members. Sections 103 and 104 of the *Electoral Act 1992* provides that a person is not qualified to take a seat in the Assembly if he or she holds remunerated statutory office or appointment or is otherwise employed by a Government or a Government body. Each member must seek their own advice about whether their appointment falls within this provision.

## **Legislative Reference**

*Electoral Act 1992*

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