



March 12, 2021

**MEMORANDUM**

**TO:** Deputy Ministers

**FROM:** Stephen J. Mills  
Cabinet Secretary

**RE:** Activities and Operations During the Election Period

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Now that we have entered the election period, departments are reminded that there are restrictions on departmental activities during this period. This memo outlines the key points and expectations around various government functions and processes. Although this letter outlines the general principles, Deputy Ministers are required to exercise their judgment in determining what is appropriate during the election period, and may seek advice from the Executive Council Office (ECO) in individual circumstances.

Generally speaking, the public service should not undertake activities that could impact the outcome of an election. Deputy Ministers must remain non-partisan in the delivery of departmental activities. Your department must not promote, or be perceived to promote, the election of any particular party to government; therefore it is essential that staff are aware of the parameters in which information can be used and communicated during the election period.

Activities that are routine in nature and required to be done under legislation are generally acceptable. Activities that communicate new policy, or are designed to seek input on policy issues should not be undertaken.

The duties of Ministers continue during the election period. However, in our Westminster form of government, convention requires that Cabinet or Ministers must also exercise restraint in their actions. This is referred to as the "caretaker convention". The rationale is that, following dissolution of the Legislative Assembly, there is no elected chamber to which the government can be held accountable, and the government cannot assume that it will command confidence in the next sitting of the elected chamber. Under this convention, routine, non-controversial, or urgent matters that are in the public interest can be decided by a Minister, but the government must weigh the need for action against potential public reaction. Consultation with the Opposition parties by Ministers before taking action may be appropriate in some cases.

## Guidelines on Activities during an Election

### Government Communications

- The Cabinet Secretary, with the assistance of ECO-Communications, issues a news release announcing the election. This is the final (significant) news release prior to the election.
- Government advertising, news releases, media briefings and/or interviews, public speaking engagements and the distribution of new publications—both electronic and print—are restricted to matters of the following nature, such as:
  - health and public safety messages of a pressing or urgent nature,
  - public service recruitment advertising,
  - general information about routine government business (e.g. publishing the school bus schedule, social marketing campaigns that are already in place, such as smoking cessation),
  - materials related to tourism promotion, and
  - any essential or legislatively required material such as legal notices and reports.
- Interviews with the media should be limited to providing factual information that is already available or would be available through a public or ATIPP request. Public servants must not make any positional statements in the media on behalf of the government. Government continues to have a responsibility to be transparent, but where possible interviews should be declined or postponed until after the election. Urgent public health and safety issues must be communicated without delay, and should not include any Ministerial quotes. If an interview is granted, please inform ECO communications.
- Consultations and public meetings are not initiated or conducted during the election period. If an exceptional circumstance exists where discussions with the public or interest groups are considered essential (e.g. meeting a time limit defined in law), please seek advice from the Cabinet Secretary.
- Inquiries from candidates running for election about government program information should be handled with care. Generally, the public service can provide factual information to political candidates during the election, or information that can be accessed through the ATTIP Act. Contact ECO for guidance if the department receives calls from candidates from any of the parties.

## **Funding Programs**

- The management of routine/regular funding programs continues. Notices for applications to funding programs, where deadlines were established prior to the election call, can be placed and run. However, letters informing applicants of awards are held back for approval after the election period.

## **Travel and F/P/Ts**

- Travel for required government business or for professional development/training purposes is permitted although all travel is heavily scrutinized. For the duration of the campaign, all out-of-territory travel is approved by the DMs of ECO and Finance. If the travel is not mandatory, it should not occur.
- If attendance is required at F/P/Ts or other intergovernmental meetings (e.g. trade agreement negotiation meetings), government employees must not make any commitments on behalf of the future government. Under these circumstances, their role is to observe the proceedings and not participate in discussions and negotiations.
- During this period, Ministers are not to attend federal/provincial/territorial meetings (FPTs), participate in negotiations, or approve intergovernmental or interagency agreements or participate in related discussions.

## **Cabinet/Management Board**

- Although Cabinet and Management Board may meet, it is for critical matters only. It is not expected that decisions or changes with long-term impacts will be made. If an emergency arises requiring a Cabinet or Management Board decision, please advise the Cabinet Secretary.

## **Political Activity/Use of Government Resources**

- Government employees may not carry out partisan political assignments during work hours including wearing buttons or partisan clothing, putting up posters or using partisan screen savers. The Public Service Commissioner provides staff with further information on their rights and responsibilities for the election period.
- Government employees may not use or allow to be used, Yukon government equipment or facilities (e.g. meeting rooms, vehicles, photocopiers, phones or computers) for partisan political purposes.

## **Interactions with Stakeholders**

- Departments may continue to hold regular operational meetings with stakeholders. Under no circumstances should departments make commitments to stakeholders regarding funding or policy direction, or initiate consultations.

## **Ministerial Caseworks**

- Caseworks are assessed on a case by case basis. Routine matters may be replied to under the Deputy Minister's signature. Other matters may be held for a new Minister. A courtesy copy of each casework reply should be provided to the Cabinet Secretary who will provide a copy of the letter to the principal secretary. ECO is available to advise departments when assessing casework.

## **Boards and Committees (and appointments/reappointments)**

- The work of various boards, committees and working groups generally proceeds uninterrupted during the election. Yukon government officials working with such groups must exercise sound judgment when attending meetings or providing input – for example in relation to the level of government support a group can expect for a specific initiative or policy.
- Appointments and reappointments to boards and committees are deferred in most cases. Consult ECO before making any commitments concerning appointments that cannot be deferred.

## **Regulatory Activity**

### **Permitting, licensing, or land application processes**

- As part of their core business, many departments accept, review and issue licenses or approvals for a number of matters. Officials should continue to process such matters. If the department requires the Minister's input to proceed due to the nature of the decision, discuss with the Cabinet Secretary before moving forward.
- The YESAA project assessment process continues, as it has legislated timelines for the issuing of decision documents. Yukon government officials will continue to provide input through the established processes (i.e. through Yukon government's 'DART' system). Yukon government will continue to issue routine decision documents in accordance with the YESAA timelines.
- Officials should seek advice from Major Projects Yukon if a project is not routine, is contentious, if the department has been invited to participate in a public meeting, if the department is considering issuing a decision document which significantly varies a YESAB recommendation, or if the media has requested information.

**Records**

- Information on handling records will be provided. As you are aware, departmental copies of Cabinet and Ministerial records (whether in paper or electronic format) are official government property and cannot be removed or destroyed except in accordance with approved records retention schedules.

**Procurement**

- Information and advice on procurement during an election period will be provided by the Deputy Minister of Highways and Public Works.

Please ensure all employees are aware of these requirements for the election period. For more information about election activities go to <https://yukonnect.gov.yk.ca/Pages/election.aspx>. If you have any questions or concerns, please contact my office at 867-667-8609.



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Stephen J. Mills  
Cabinet Secretary



## Memorandum

**Date:** March 12, 2021  
**To:** Cabinet Ministers and Staff  
**From:** Premier  
**Subject:** Resources and Responsibilities during Election Period

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Now that we have entered the election period there are a number of required practices that impact Ministers and political staff with regard to Ministerial responsibilities and the use of government resources.

Under the "caretaker convention", the government acts with restraint during an election, confining itself to necessary public business—either routine or urgent.

The distinction between official government business and partisan political / election activities must be strictly observed and government business is restricted to the following types of matters:

1. routine,
2. non-controversial,
3. urgent and in the public interest (such as a natural disaster),
4. reversible by a new government without undue cost or disruption,
5. agreed to by the Opposition parties where appropriate.

A full summary of the "Caretaker Convention" is attached for your review. Specific information on Ministers' activities during an election are outlined below.

### Office Resources

Ministers still have access to their government offices but the use of those offices is restricted to Ministerial and constituency casework for non-partisan matters.

Ministerial offices should not be used to prepare, store or distribute political party, constituency association or election campaign materials, or to display any materials advocating the choice of any party or candidate.

Government telephones, cell phones, email and internet services will continue to be available through the election period, but Ministers are reminded that their use, including for social media, should be limited to dealing with ongoing or emergent, government or non-partisan constituent matters and may not be used for election purposes.

Similarly, vehicles, computers, photocopiers and meeting rooms should not be used for partisan purposes or election activities.

### **Staff**

Political employees remain employed during the election period, but it is expected that their work will be related to government or non-partisan constituency work.

Political staff in Cabinet offices who wish to become involved in the election campaign during work hours are required to take vacation leave or an unpaid leave of absence during the election period.

Deputy Ministers have key responsibilities for ensuring that government resources are used only for official government business, and that public servants respect the principles of political neutrality in their work.

Those officials in the public service who wish to become involved in the election campaign during work hours are also required to take vacation leave or an unpaid leave of absence during the election period.

### **Ministerial Decisions and Policy Decisions**

Although Ministers remain in power during an election period, in keeping with the Caretaker Convention, Cabinet generally restricts its decision-making activities to critical matters only.

Please exercise care so as not to take actions that may be interpreted as binding a new government to a particular policy position.

### **Financial Decisions and Spending**

No expenditures can be made from government budgets related to promotional or election communications activities, including for public opinion research or advertising during the election campaign.

For department operations, please exercise care so as not to take actions that may be interpreted as binding a new government to a particular expenditure.

Note that for this period of time, all Ministerial spending authority for cheque requisitions, contracts, change orders, travel authorizations and other documents for routine matters has been delegated by Management Board to Scott Thompson, Deputy Minister of Finance and Stephen J. Mills, Cabinet Secretary/Deputy Minister of the Executive Council Office. In the event that both Stephen J. Mills and Scott Thompson are unavailable, the same signing authority has also been delegated to the Public Service Commissioner, Pamela Muir.

Accordingly, Deputy Ministers from all departments have been directed to refer those spending approvals to the Deputy Ministers of ECO and Finance, or the Public Service Commissioner if the Deputy Ministers of ECO and Finance are unavailable, for consideration and approval on behalf of the Ministers for this period of time.

### **Federal/Provincial/Territorial Meetings and Activities**

During this period, Ministers are not to attend federal/provincial/territorial meetings (FPTs), participate in negotiations, or approve intergovernmental or interagency agreements or participate in related discussions.

Government officials may attend FPTs or conventions on behalf of Yukon government, subject to discussions and travel approval from the Deputy Minister of ECO or Finance.

However, any participation is limited (respecting the caretaker convention principles) to observing. Officials may not express Yukon government positions at the meetings, or at any related discussions during this time.

### **Communications**

Government news releases are not issued during an election period unless it is for health and safety purposes. Announcements that must be made (for a significant international or domestic event for example) are made by ECO or the Deputy Minister of a department.

Any department seeking to make an announcement, as approved by the Deputy Minister, must consult with ECO Communications and have approval of ECO DM/Cabinet Secretary.

Correspondence is restricted to official government business and constituency mail-outs are not allowed during the election period.



Ministers should use government stationary only when acting in an official capacity and not for election purposes such as door to door handouts.

## Records

As you are aware, all records relating to Cabinet and Ministerial responsibilities are official government property and cannot be retained for personal use nor destroyed.

In accordance with long standing practice, in the event of a change in government, these records are sent to the Yukon Archives and sealed in accordance with parliamentary convention. They are managed in accordance with the *Access to Information and Protection of Privacy Act*.

If you have any questions about the contents of this memorandum or need to clarify any proposed activities during this time, please feel free to contact me at 393-7007.

A handwritten signature in blue ink, appearing to be 'Sandy Silver', is written over a horizontal line.

Sandy Silver  
Premier

## Attachment(s):

- Copy of Caretaker Convention

# Talking About Transition

Presentation for departmental senior management teams



# Overview

- An election can be called at any time at the request of the Premier
- Next election must be called by Nov 18, 2021

# Overview

- Four phases of “transition”
  - Pre-election
  - Election
  - Post ballot count
  - Post swearing-in

# Last Year of Mandate

In the final year of a government's mandate, pace of activity changes:

- Pressure to complete projects
- Pressure to avoid new or non-critical initiatives, particularly if they raise public questions or concerns
- Heightened sensitivity

# ECO Election Planning

- Preparation starts a year in advance and includes every scenario
- ECO prepares the work tied to the mechanics of transition
- ECO prepares materials for public servants, including DMs, and for the incoming and outgoing government

# Election Period

During the election:

- Ministers remain responsible for their departments
- Cabinet and Management Board meet only if absolutely required
- DMs of ECO and Finance provided delegated financial responsibilities for ongoing operations of government
- Unproclaimed legislation = decision of new government

# Election Period

- The Cabinet Secretary (DM of ECO) provides direction on activities permitted during an election period. Generally speaking, activities of public service must not impact the outcome of the election
- Examples of direction:
  - Political activity – restricted at work
  - Communications – limited
  - Consultations/negotiations – none
  - Travel – limited
  - Procurement – limited
- Respond to requests for information from media or candidates via departmental communications shop – factual, non-partisan information. Check with ECO Communications if in doubt
- Ministers would not normally attend FPT meetings; if attendance is critical, a senior official is designated to attend, but not authorized to commit YG to any new positions. Check with ECO Intergovernmental Relations



# Election Period: Departmental Activities

During the election, departments:

- monitor platform commitments, and think about how they can be delivered effectively, including costs
- think about public policy/departmental priorities and appropriate timing for presenting those ideas to the incoming government
- work on the post-election briefing binders. Instructions to be provided by ECO

# Possible Election Outcomes

- New party – new Cabinet
- Same party – new Cabinet
- New DMs – serve “at pleasure”

# Post Ballot Count

- A transition period (ballot count to swearing-in) may range from 2-4 weeks
- Outgoing government is a caretaker government
- DMs, led by the Cabinet Secretary, discuss new government priorities and how to deliver them
- Departments revise briefing materials to reflect new government priorities/platform commitments
- Cabinet Secretary issues instructions to DMs about records management

# Cabinet and Ministerial Records

## Principles for Cabinet and Ministerial Records

- protecting the confidentiality of previous Cabinet deliberations
- ensuring the continuity of government operations from one administration to the next
- ensuring records belonging to government are managed in accordance with ATIPP and the Archives Act

# Cabinet and Ministerial Records

During every transition of government:

- Original Cabinet and Ministerial records are transferred to the Yukon Archives
  - This includes briefing notes, caseworks and submissions to Cabinet and committees of Cabinet
- Guidelines will be issued from ECO, in conjunction with Yukon Archives

# Cabinet and Ministerial Records

- Departmental copies of Cabinet and Ministerial records must be managed according to the guidelines issued by ECO and Yukon Archives
- ECO and Archives will provide departmental training and templates to guide the records work within departments

# Financial Implications

- The date of the first Legislative Assembly session of the new or returning government could impact the timing of tabling of main and supplementary budgets
- The incoming government may direct departments to resubmit variance reports and/or future year budget requests
- A special warrant or interim supply bill are tools that can be used to authorize spending until a new budget bill can be tabled and voted on

# Swearing-In

- The ceremony is the official transfer of power from one government to the next
- The selection of Ministers is the prerogative of the Premier
- Names and portfolios of Ministers are kept confidential until swearing-in



# After swearing-in

- Cabinet Secretary leads discussion with Premier on translating the platform into priorities (Throne Speech, mandate letters, etc.)
- First DM and Minister meeting. First briefings are key for building trusting relationships

# Building Trust

If you work with the Cabinet Offices:

- Invest time in the relationship with the new Minister
- Listen first
- Align with the government's priorities
- Be careful not to overwhelm
- Adjust to their needs – be adaptable
- Use language they understand
- **Nothing replaces good advice**
- **Remember your role as a professional public servant**

# Questions?

**Amanda Lieverse**  
Director, Policy &  
Planning  
Executive Council  
Office

**Joanne Curial**  
Manager, Information  
Management &  
Technology  
Executive Council Office

# Briefing binders

An opportunity to identify departmental priorities



# When preparing materials...

- Purpose
  - Your department and its critical issues at-a-glance
  - Supplementary briefings will follow later
- Audience
  - What information is critical for a new Minister?
- Timeliness
  - What information is critical now?
- Volume of materials
  - Will additional details aid understanding or detract from the issue?

# Avoid overwhelming a new Minister

Information overload:

- Interferes with an understanding of the subject matter
- Leads to remembering details that are less relevant or misremembering those that are critical or time sensitive
- Confuses how all of the details fit together
- May lead to frustration with the public service

# Briefing binders

- Template 1: Key platform commitments for depts.
- **Template 2: Summary of major departmental initiatives**
- Template 3: Critical decisions within first 90 days
- Template 4: Key pending events and meetings
- Template 5: Suggested stakeholder meetings
- Template 6: Suggested Ministerial briefings
- **Template 7: Briefing note template for major initiatives**

**Not in briefing binder: NEW checklist for major departmental initiatives**

# What counts as a major initiative?

- When possible, break broad initiatives (e.g. Putting People First, Our Clean Future) into narrower priority initiatives in Template 2.
  - For example, the Putting People First recommendation to “Create Wellness Yukon, a new, arms-length government agency that delivers basic health and social services in the territory” could be listed as a distinct major initiative.
- Major initiatives requiring a decision within 90-days (Template 3) must still be included in Template 2.



# Checklist for major initiatives

- Complete one checklist for each priority initiative identified in Template 2.
- Work with relevant program areas and finance directors to ensure information is accurate.
- Submit a policy director approved checklist AND a copy of the draft briefing note for each major initiative (Template 7) to Amanda Lieverse by April 6, 2021.
- [Policy director approved checklists and attached draft briefing notes will be shared for review and discussion at a special PRC directors-only meeting. This will help identify any potential overlapping initiatives or not-yet-recognized interdepartmental impacts.]

Contact Amanda Lieverse ([amanda.lieverse@yukon.ca](mailto:amanda.lieverse@yukon.ca)) or Taryn Turner ([taryn.turner@yukon.ca](mailto:taryn.turner@yukon.ca)) with any questions about filling in the checklist.

# How the checklists will and can be used

By ECO, in collaboration with MBS, LCO, political transition team:

- To make recommendations for inclusion in Ministerial mandate letters

By departments:

- To support DM briefings to Ministers on major initiatives within their departmental remit
- To support departmental strategic and operational planning

Potential future uses:

- For mandate letter items flowing from political offices
- Semi-annual callout for mandate letter item updates

# Potential benefits to departments

Ideally, this early prioritization exercise will help departments:

- Maintain progress on important existing initiatives (and let other initiatives fall off)
- Highlight opportunities to undertake important or necessary new initiatives
- Get off on a good foot with ministers by providing clear, persuasive, organized priorities
- Help Ministers provide early and clear direction on their top, limited number of priorities (and identify the resources needed for those initiatives)
- Strategically allocate remaining resources to necessary but non-top priorities at dept. level

# Potential benefits to new government

Ideally, this early prioritization exercise will help the new government:

- Develop clear and achievable vision
- Help ensure vision does not outstrip capacity
- Understand departmental major initiatives without being overwhelmed with detail
- Consider, in a balanced and informed manner, these initiatives alongside other departmental initiatives and their own platform commitments.

## The Caretaker Convention<sup>1</sup>

In Canada's Westminster form of government, convention requires that the government command the confidence of the House of Commons (or in the case of provincial and territorial governments the Legislative Assembly) at all times. While constitutionally the government retains full legal authority to govern during an election, as well as the responsibility to ensure that necessary government activity continues, it is expected to exercise restraint in its actions.

This is referred to as the "caretaker convention". The rationale is that, following dissolution, there is no elected chamber to which the government can be held accountable, and the government cannot assume that it will command confidence in the next session of the elected chamber.

The conventional restriction limiting the extent to which the government should exercise its authority applies whether it has lost a vote of confidence in the Legislative Assembly, whether the Premier has asked for dissolution on their own initiative, or whether the Legislative Assembly has been dissolved in advance of an election date set by legislation. It also applies to the outgoing government during any post-election transition to a successor government. This caretaker period ends when a new government is sworn in, or when an election result returning an incumbent government is clear.

The caretaker convention does not mean that government is prohibited from making decisions or announcements, or otherwise taking action, during this period. It can and should do so where the matter is routine and necessary for the conduct of government business, or where it is urgent and in the public interest – for example, managing a pandemic or responding to a natural disaster (see Appendix A for additional information about the caretaker convention in emergencies).

In short, during an election, government should restrict itself – in matters of policy, expenditure and appointments – to activity that is:

- routine, or
- non-controversial, or
- urgent and in the public interest, or
- reversible by a new government without undue cost or disruption, or
- agreed to by opposition parties (in those cases where consultation is appropriate).

In determining what activity is necessary for continued good government, the government must exercise judgement, weighing the need for action and potential public reaction, given the absence of a sitting Legislative Assembly and the possibility that a different government could be elected.

## Continuing Government Business

The duties of Ministers must continue to be fulfilled during the caretaker period. Officials and departmental resources continue to be at the disposal of Ministers for the purpose of departmental duties. These duties may or may not be set out in legislation.

As is the case between elections, during elections Ministers their staff are obliged to ensure that the resources of the department – financial, materiel and human resources – are not used for partisan purposes. In the context of an election, they must be especially vigilant with respect to the distinction between official government

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<sup>1</sup> This paper was adapted from material prepared by the Privy Council Office: [Guidelines on the conduct of Ministers, Ministers of State, exempt staff and public servants during an election - Canada.ca](#)

business supported by departmental resources, and *partisan political activities*, taking care to avoid even the appearance that departmental resources are being used for campaign purposes.

Deputy Ministers have a key role in ensuring the continuance of necessary government business – for example, by staying in contact with their Minister through the campaign. They must also ensure that departmental and agency facilities and resources continue to be used only for official government business and that the public servants in their department carry out their responsibilities in a non-partisan manner.

In order to fulfil their ongoing responsibilities, Ministers must remain in contact with the Deputy Minister to provide direction to the department as appropriate. At the same time, in order to respect the caretaker convention as well as the distinction between official government business and partisan activity, in the absence of any of the exceptions listed above, Ministers must:

- defer to the extent possible such matters as appointments, policy decisions, new spending or other initiatives, announcements, negotiations or consultations, non-routine contracts and grants and contributions;
- work with Deputy Ministers to ensure that departmental activities are carried out in a non-partisan, low-profile manner; and
- avoid participating in high-profile government-related domestic and international events, including federal/provincial/territorial events, international visits, and the signing of treaties and agreements.

## Cabinet Operations

Normal Cabinet procedures must be followed in fulfilling the Minister's official duties. The Minister must not act independently on an initiative that requires Cabinet or Management Board approval. Cabinet operations are normally curtailed during an election, with Cabinet meeting only as necessary to deal with essential items. Ministers should always be accessible to participate in Cabinet and departmental decision-making to deal with any matters that might arise.

## Departmental Support

As always, public servants must not be asked to perform political tasks or work normally done by ministerial staff, and departmental facilities and resources, including Ministers' offices facilities and resources, cannot be used for partisan purposes. This includes: government vehicles, meeting rooms, information technology (e.g. computers, cell phones, iPads, tablets), and printers and photocopiers.

Departmental communications and policy branches must not be involved in partisan matters. They may provide Ministers with existing factual information, but they must not be asked to perform any additional or expanded services. Similarly, some regular departmental operations that continue during an election period, such as media monitoring, may need to be reviewed and adjusted to ensure that they are not inadvertently applied to Ministers' campaign activities. Department-supported websites and social media (and any information derived from them) should continue to be used only for official government communications, and government resources should not be used to support personal or partisan social media accounts.

## Communications and Advertising

Government or departmental announcements are curtailed during an election period. Exceptions would be made, for example, in the case of a significant international or domestic event where the failure to have the Premier or Minister comment would do damage to Yukon interests or prestige; or announcements relating to the health and safety of Yukoners. Announcements that must proceed are made in the name of the department.

As always, communications and public announcements that are prepared using government resources must not contain partisan information or identifiers.

Any department seeking to make an announcement, as approved by the deputy head, must consult with ECO-Communications and have approval of ECO DM/Cabinet Secretary .

Ministers should be careful in the use and distribution of governmental publications during an election campaign. Such publications can be distributed, but only as would occur under normal circumstances in support of official government business.

Public funds may not be used for public opinion research or advertising during the election campaign.

Exceptions from the restriction on advertising may be granted for public notices for legal purposes, or for reasons of public health and safety, and employment or staffing notices.

## **Contracts, Grants/Contributions and Appointments**

The processing of routine and non-controversial contracts and grants/contributions needs to continue. However, there should be heightened vigilance to ensure that contracts and grants/contributions are not used for partisan purposes. For this purpose, during caretaker periods, decision-making with respect to routine contracts and grants/contributions may be delegated to departmental officials who are responsible for applying the principle of restraint.

No contracts are to be awarded by ministerial offices to write speeches during the election campaign.

Appointments should normally be deferred. The Premier's office and the Executive Council Office must be consulted before making any commitments concerning appointments that cannot be deferred.

## **Summary**

Under the caretaker convention, the government acts with restraint during an election, confining itself to necessary public business (either routine or urgent).

Public resources must not be used for partisan advantage. Hence, the distinction between official government business and partisan political activities must be strictly observed: only the former may be supported by departmental resources and the work of public servants.

Deputy heads are responsible for ensuring that departmental resources are used only for official government business, and that public servants respect the principles of political neutrality in their work.

## Appendix A

### Caretaker Convention And The State Of Emergency/COVID-19 Pandemic

The caretaker convention, and the principle of restraint it embodies, does not prohibit government from taking action deemed necessary and appropriate to ensure the public interest or public safety. As noted by Philippe Lagassé, Associate Professor and Barton Chair at the Norman Paterson School of International Affairs, Carlton University, “the caretaker convention is ultimately grounded in a principle of restraint, not a prohibition of action. It is a convention that relies on prudential judgement rather than absolute constraints”<sup>2</sup>

Consequently, the election period will have no impact on the State of Emergency in Yukon or the powers granted to the Minister responsible for the *Civil Emergency Measures Act* during an emergency, nor will it limit or restrict government’s authority to take any necessary and appropriate action, including policy decisions and expenditures, to safeguard the public interest and/or public health.

Because conventions are practices or informal rules, the question of what constitutes a necessary and appropriate action is open to interpretation and subject to judgement, discretion and common sense. The Cabinet Secretary will advise whether specific activities or decisions align with the spirit and intent of the caretaker convention. However, to the extent possible, government and departments should:

- maintain the status quo;
- defer signification decisions or actions until the new administration is sworn-in or, in the case of a returning government, the results of the election are known and clear and the caretaker convention no longer applies; and
- where deferral is not possible,
  - obtain decisions/approvals before the election period (where possible and appropriate);
  - delegate Ministerial authority to an alternate (e.g. a Minister not seeking re-election or department official, where legally permissible); or
  - consider engaging the opposition on significant decisions/actions that could be controversial or difficult for a new government to reverse, particularly on issues where the government and opposition have diverging views.

#### Additional References:

2020 State General Election Guidelines on the Caretaker Conventions, Department of the Premier and Cabinet, Queensland Government: [guidelines-on-caretaker-conventions.pdf](#)

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<sup>2</sup> Philippe Lagassé (October 13, 2015) *Clarifying the Caretaker Convention*, Centre for International Policy Studies: [Clarifying the Caretaker Convention – Centre for International Policy Studies \(cips-cepi.ca\)](#)



# Deputy Ministers and Government Transition

**March 2021**

Key Contact :

Stephen J. Mills

Cabinet Secretary

Executive Council Office

Government of Yukon



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## Election Reference Materials

Activities and Operations during the Election Period – Cabinet Secretary to Deputy Ministers

Procurement during an Election Period – Deputy Minister of HPW to DMRC

Political Activity, Political Leave and Time off to Vote – Memo from Public Service Commissioner to public servants

The Caretaker Convention

Resources and Responsibilities during the Election Period – Premier to Ministers

Post-Election Briefing Books – Cabinet Secretary to Deputy Ministers

ECO Communication Strategy



# 1

## Introduction

This package provides deputy ministers with an orientation to the public service work associated with elections.

This first part provides an overview of the roles and actions expected of deputy ministers with respect to transition responsibilities in the election period and post-election period. Included in each of these sections is additional information on actions that the Executive Council Office (ECO) is undertaking during each of the planning periods that may be of assistance in understanding the broader context in which departments are working. The last part of the package contains reference materials.

Additional reference materials will be provided later, including:

- “Establishing a New Yukon Government Administration”, which includes information on key decisions associated with establishing a new administration. This document will be provided to the Premier and the transition team sometime after the ballot count. It will also be provided to deputy ministers so they are aware of the information that will be provided to the new government.
- The “New Government Orientation Handbook” includes information on roles and responsibilities and government processes. It will be provided to new ministers after the swearing-in ceremony to assist in their understanding of their role within government. Again, it will be provided to deputy ministers so they are aware of the information that will be provided to ministers.
- Records Management Guidance



# 2

## Election Period

### 2.1 Overview

The signing of the Commissioner's orders to dissolve the Legislative Assembly and instruct the Chief Electoral Officer to issue the writs of election formally launches the election period. At this point, government goes into a 'hiatus' period and follows the principles of the "caretaker convention". ECO has developed an overview of the caretaker convention for your convenience. The general principle governing the operations of government during this period is that no action on the part of departments or members of the public service should become an issue during the election campaign, thereby having a real or potential impact on its outcome.

As such, during this period, government is focused on routine matters necessary for its ongoing operations or critical matters that can't wait until after the election. There is, in general, a 'blackout' on government communications and on consultations and other interactions with the public. While certain government communications are allowed in this period such as those related to health and/or safety issues and those necessary to meet legal requirements, these require judgment calls. Departments are requested to seek the advice and approval of the Cabinet Secretary and ECO Communications with questions related to public communications.

While there is no prohibition on Cabinet and/or Management Board meetings during the election period, if they are held, they generally deal only with critical matters. Materials that have been submitted for Cabinet and Management Board, and not dealt with prior to the election call, are automatically withdrawn.

ECO tracks platform commitments during the election period. The tracking document will be made available to all deputy ministers during the election period.



The Cabinet Secretary will communicate the requirements for post-election briefing materials to departments. These will follow a standard format, intended to provide ministers with an initial overview of their departments' mandates, organization, programs, major initiatives, and stakeholders. The Cabinet Secretary will also ask deputy ministers to compile a list of early decisions they believe will be required, and any ministerial meetings or events to be held early in a new mandate. While these materials are prepared during the election period, there will be a need to maintain flexibility to respond to new requests once the election outcome is known. It is important that materials be revised to reflect the major platform commitments of the incoming government.

## 2.2 Department's Election Period Activities

Action by deputy ministers:

- Review communication from the Public Service Commission informing employees of their right to political leave, political activities and time off for voting during an election. Discuss with senior staff to ensure they all understand the obligations.
- Ensure that the public service remains “below the radar” during the election period, consistent with general direction provided by the Cabinet Secretary.
- Pay attention to platform commitments and election issues as they pertain to your department, and consider how they might be addressed post-election. Prepare for early discussions with the minister on their priorities and how you might deliver on those priorities. Be prepared to be nimble and responsive to the priorities of the new government.
- Start developing briefing binders.
  - In the binders requested by ECO, provide a general overview of your department and list critical decisions for the post-election period. The binders will be given to the incoming Premier and the transition team, and will help determine which minister may be assigned a certain department.



- Consider additional briefing and orientation materials for the minister that may be appropriate for briefing your minister on your department's issues.
- It is essential to invest time in the briefing materials. Consider setting up a small team to define how the department might deliver on the new government's priorities, as well as the content of the specific department briefing materials. Also, consider the sequence in which you will provide the information on departmental initiatives to your minister, as you may not want to present it all at once, and overwhelm the minister.

## 2.3 Election Information

- In accordance with the *Elections Act*, the election period is minimum 31 calendar days. Writs are typically issued on a Friday and the election must be held on a Monday.
- Even though an election is called, the current government continues to govern, though in a more limited fashion. If the same party is re-elected, anticipate that there may be new ministers, as some ministers may choose not to run, some may not get re-elected or the Premier may wish to shuffle ministerial portfolios.
- The outgoing ministers continue to have authority to act up until the swearing in ceremony for the new Cabinet.
- The Cabinet Secretary will issue a letter to deputy ministers about activities that are allowed and not allowed during the election period.
- The limitations on activities of a government are governed by the caretaker convention.
- The Premier will issue a letter to the ministers and staff about activities that are allowed during the election period.
- Information to public servants will be posted on an internal website – timing to be determined.





# 3

## Post-Election Period

### 3.1 Overview

The focus of the post-election period is on getting a new administration up and running as smoothly and quickly as possible.

Until a new Cabinet is sworn-in, ministers of the existing government continue to have their full legal authority. However, in keeping with parliamentary traditions, only routine or urgent decisions are generally taken in order not to bind a future government. This “caretaker convention” will require particular attention if there is a change in administration.

Once the makeup of Cabinet is known, the Cabinet Secretary arranges for briefings for ministers and their staff on the roles and responsibilities of ministers and on various aspects of governance and administration. Some of these materials will be provided to deputy ministers so they are aware of the information that will be provided to ministers.

If the election results in a new governing party, post-election tasks will be more intense. This can be a challenging time as the outgoing Premier, ministers and Cabinet staff come to terms with their electoral loss and the incoming government begins its work of taking on the responsibilities of governing. During this time, it is important that the public service pay particular attention to its ongoing responsibilities for providing professional, non-partisan service to political leadership.

A new government will assemble a transition team that will work with ECO to ensure briefing and orientation materials and on-boarding sessions for new ministers and staff are arranged. They will discuss space and equipment requirements for Cabinet offices and will help prepare for a smooth transition and well-prepared office environment for the incoming government.



The transition team will usually be comprised of non-elected members of the government. Their role is to provide advice to the new Premier, other elected members and staff on how to establish the government, create priorities and interact with the public service.

A new government, or potentially a returning government with many new ministers, may give rise to questions and uncertainties within the public service about the new government's approach to governing and public policy priorities and preferences.

An early and essential task for the Cabinet Secretary will involve discussions with the Premier and Cabinet about translating platform commitments into a government agenda and marshalling efforts within the public service to respond to agenda items. This will include the assignment of departmental responsibilities and identifying timing and options, as well as developing a potential legislative agenda. This may involve organizing retreats for Cabinet or Cabinet and deputy ministers, which ECO under the Cabinet Secretary's direction will arrange. It may also involve assisting the Premier in preparing mandate letters for ministers that take account of key priorities and general strategic directions. These initiatives will occupy the early months of a new government.

Up until the swearing in ceremony, deputy ministers will not know who their new minister will be. The immediate period after the swearing-in is a critical period for building relationships with a new minister and political staff. If a deputy minister gets the working relationship right, briefings, problem solving and other important work will be dealt with more easily. If a deputy minister gets it wrong, it can mean a rocky path and sometimes a short career.

## 3.2 Department's Post-Election Activities

### 3.2.1 Deputy Minister Actions – Incoming government

- Revise briefing materials depending on the outcome of the election, and the commitments made by the winning party. Briefing materials will provide ministers with an understanding of the broad strokes of their department, the upcoming critical decisions, and the resources needed to support new initiatives. This foundational information is critical for future discussions aimed at





prioritizing platform commitments and other initiatives your department may recommend.

- Pay close attention to the volume of information being shared, sequence briefings and pick the right time to share different types of information. Remember that the minister has just gone through an election; they will be tired and may be focused on building relationships with the Premier and their colleagues. If they are newly elected, they will be learning about their responsibilities as a Member of the Legislative Assembly at the same time.
- The first meeting can often impact the relationship for the remainder of the mandate. Work to make the new minister feel comfortable that support for the minister's office is the top priority for the deputy minister and the department. At the same time, consider how to build a strong, trusting relationship with your minister that encourages challenge, dialogue and frank advice.
- Take the time to listen to the new minister about what they want to accomplish and why, rather than focusing on what the department would like to accomplish. Be prepared to confirm and further clarify priorities as needed. Model leadership in your department when re-aligning to new priorities – things may change significantly from what they were just a few months before and the department needs to focus on delivering on a new agenda.
- Prioritize getting the minister up to speed on their departmental briefs. This can include building relationships and meeting with other governments and key stakeholders including First Nations, municipal governments and interest groups including non-governmental organizations and industry that are critical to the workings of your department.
- Discuss among deputy ministers how to deliver on the incoming government's agenda. These discussions will be informed by conversations between the Cabinet Secretary and the Premier and their political transition team.



### 3.2.2 Deputy Minister action – Outgoing government

- If there is a change of party, manage the department's records of the outgoing government effectively. Record management letters will be issued from ECO, providing guidance to departments and to the Cabinet Offices.
- If there is a change in government, any issues or concerns that arise should be brought to the attention of the Cabinet Secretary. Up until the swearing in ceremony of the new government, the outgoing government operates under the caretaker convention.

## 3.3 Post-Election Information

- The Cabinet Secretary provides information to the **incoming government** on:
  - Options for organizing their government. This is a very deliberate discussion on opportunities for changing government structures, reporting relationships and internal government processes. The new government may be interested in creating new departments and combining responsibilities of existing departments and these decisions are more likely to occur at the beginning of a mandate; however, some new governments may wish to wait
  - How to establish a new government.
  - The roles, responsibilities and accountabilities of the branches of government and the Cabinet process.
  - Conflict of interest process advice, in conjunction with the Legislative Assembly Office.
  - Possible protocols and procedures for the relationship of the Cabinet Office with departments.
  - Options for establishing Cabinet and back-up ministers.
  - Options for delivering on the incoming government priorities



- Options for a retreat with deputy ministers to discuss priorities.
- The Cabinet Secretary coordinates briefings for the incoming government. The level of briefing is dependent on whether the same party is returned, or a new party is elected. These briefings will include, at minimum:
  - Cabinet: high-level review of roles and responsibilities of Cabinet and departments, operations of Cabinet, Cabinet and Cabinet committee processes, relationship with the public service, and communications.
  - Cabinet staff: high-level review of Cabinet and Cabinet committee processes, relationships with the public service, records management and ATIPP. Specific information is also provided on ECO support for the Cabinet Offices that is unique to Yukon. These areas include financial management support, records management and human resource support.
- The Cabinet Secretary, working with deputy ministers, will organize issue specific briefings as identified in the pre-election period.
- Management Board Secretary (Finance) provides a budget briefing and information on the establishment and role of Management Board.
- If there is a change of party, the Cabinet Secretary provides information to the **outgoing government** on:
  - records management
  - timing for moving offices, return of government property such as portable phones, keys, computers, passports, gifts and other miscellaneous items.



Good afternoon,

I am writing to provide additional clarity and the preferred approach for managing departmental initiatives during the writ period.

Deputies are expected to apply the caretaker convention to routine and operational decision-making within the department. However, recognizing that these decisions will be subject to additional scrutiny during the weeks ahead, I ask that you keep me apprised of significant departmental decisions to avoid any surprises. In addition, I encourage you to reach out to confirm the approach of your departmental activities to ensure a consistent application of the caretaker convention.

As mentioned on the call yesterday morning, I will be working closely with the DM of Finance to review the application of the caretaker convention. This will involve tracking all issues that come forward from departments and consistently applying the caretaker principles to each before providing direction on the preferred approach. This includes all queries for departmental activities pertaining to contracting and procurement, communications, and other planned actions. This will support the development of central repository of caretaker decisions and body of knowledge to inform the application of the caretaker convention going forward.

As such, please route any queries you have to the appropriate email below:

- Policy questions: [eco.policy@yukon.ca](mailto:eco.policy@yukon.ca)
- Communications questions: [carleen.kerr@yukon.ca](mailto:carleen.kerr@yukon.ca)
- Contract/procurement questions: [contracts@yukon.ca](mailto:contracts@yukon.ca)
- Finance/delegated signing authority: [miriam.smith@yukon.ca](mailto:miriam.smith@yukon.ca)

Please ensure to include adequate information on what is being proposed. We will work to ensure that you have timely feedback on any questions.

Please let me know if you have any questions.

Regards,

Stephen J. Mills

## **Operational Guidelines for Procurement During an Election Period 2021- from HPW (Supply Services Branch and Procurement Support Centre)**

Government procurement during an election period will be challenging as there are important principles that need to be considered and adhered to as outlined in the “**Memo to DMRC Procurement during Election Period**” document issued by the Deputy Minister of Highways and Public Works on March 12, 2021. Our Highways and Public Works’ staff in Acquisition Services and Procurement Support Centre are prepared to assist you in ensuring your procurements meet these operational guidelines.

As noted in the memorandum from the Deputy Minister of Highways and Public Works, procurement is less likely to be appropriate if it will be for a contract that could readily be deferred until after the election period.

### **Acquisition Card Procurements (P-Cards)**

P-Card procurements shall proceed as normal, however, YG staff must ensure that their procurements are not controversial or likely to result in objections or reaction from the public.

### **Procurement of Goods, Printing and some Transportation Services**

Deputy Ministers for departments requesting goods >\$1,000 or transportation services (such as air charters) are required to approve Request for Purchase/Print Service Request or Request for Transportation forms prior to submitting the requests to Acquisition Services and Planning (ASAP). These Deputy Minister approvals can be on a project-by-project basis or for multiple, routine, operational, low-value program procurements. Approval by email is sufficient. The HPW Deputy Minister (as Deputy Head of the procurement authority) will provide final approval before requests are processed.

ASAP will bundle together the requests that have already been submitted and which are not yet awarded and send them to the relevant department’s Deputy Minister to ask if the DM believes it is appropriate to proceed with either the procurement process or award. ASAP staff will provide some advice and considerations for each request listed. The HPW Deputy Minister (as Deputy Head of the procurement authority) will provide final approval before requests are processed.

### **Procurement of Travel outside Yukon**

The Travel Directive states that the Deputy Head shall authorize travel outside Yukon for an employee in a department for which the Deputy is responsible, but such authorization shall only be given with the prior approval of the Executive Member responsible for that department. After an election call, in the absence of the Minister (Executive Member), the Deputy Ministers of Finance and ECO have been delegated to provide such authorization.

Any requests for authorization for travel outside Yukon (except Alaska) that have not been given prior approval by the Executive Member responsible, are required to be approved by the Deputy Minister of Finance or ECO if the request is dated March 12, 2021 or later. The onus is

on the traveler to obtain appropriate authorization through the traveler's Deputy Minister's office.

### **Procurement Support Centre Procurements**

For services, construction and goods (where a department has delegated authority for goods):

Public tenders: All tender requests submitted to the Procurement Support Centre for public advertising on Yukon bids&tenders must be accompanied by approval from the Deputy Minister of the requesting department. Deputy Minister approval of the originating department is required in order for the Procurement Support Centre to publish the tender. Approval by email is sufficient.

Invitational tenders: Invitational tenders submitted to the Procurement Support Centre for distribution and/or receipt must follow the same process as above.

#### Additional Approval:

All approved public and invitational tenders received by the Procurement Support Centre require additional approval from the Deputy Minister of Highways and Public Works. That approval will be coordinated by the Procurement Support Centre.

Departments are strongly encouraged to ensure that tender closing dates fall outside the period from the election call on March 12, 2021 until after the end of the caretaker period.

As per standard practices for public tenders, prices will be posted on Yukon bids&tenders as soon as compliance is completed.

As noted in the memo from the Deputy Minister of HPW, award decisions are not typically communicated during an election period and serious consideration should be given to whether the award decision is necessary or advisable.

Award of contracts for duly approved project tenders will still be the responsibility of the requesting department. Contract award decisions are not typically communicated during an election period. Before contract award, the procuring department should obtain written approval from the departmental Deputy Minister, in a similar way to getting approval for procurements. The Procurement Support Centre will post the tender awards on Yukon bids&tenders after the end of the caretaker period.

Forecasting: Forecasts or notices of Planned Procurements will not be published on Yukon Bids&Tenders until after the end of the caretaker period. Staff are encouraged to continue to prepare forecast lists for their own planning purposes, and once the caretaker period ends they will be posted on Yukon bids&tenders.

*HPW staff can provide advice on potential contracting questions and will assist you in ensuring your procurements meet the guidelines above and in the “**Memo to DMRC Procurement during Election Period**” memorandum issued by the Deputy Minister of Highways and Public Works on March 12, 2021*

*Please be advised that these additional steps could cause minor delays in the procurement process.*