

**CARETAKER CONVENTIONS
IN WESTMINSTER SYSTEMS**

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CONVENTIONS

Conventions on how government works are not written down in the Constitution but can have a great impact.

Apply to:

- Cabinet government
- Relations between the Crown and the Parliament
- Between the houses of Parliament
- Ceremonial etiquette and protocols

Characteristics:

- They start as precedents which give rise to binding rules of behaviour
- They are not subject to judicial interpretation or enforceable through the legal system
- To continue, they must be observed by both sides of Parliament and are reciprocal with a change of government





PRINCIPLES OF CARETAKER CONVENTIONS

- With the dissolution of the House, there is no popular chamber to which the Executive government can be responsible; and
- Every general election brings with it the possibility of a change of

Operationalised as:

- The business of government continues and ordinary matters of administration can proceed; and
- Significant decisions should not be made which would bind an incoming government and limit its freedom of action



THE PUBLIC SECTOR'S ROLE

- The conventions ensure someone has hold of the formal levers of power until a new government is formed
- Prime Ministers and Premiers are the final arbiters of the application of caretaker conventions but adjudication increasingly in the hands of senior officials
- They are outlined in Chapter 9 of the Cabinet Handbook

YOUR PROFESSIONAL OBLIGATIONS

- Remember every election brings a potential change of government
- Electoral volatility makes that more of a possibility
- Hyperpartisanship increases the risk for the public service
- Public Service Act 2008 “carrying out duties impartially and with integrity”

Questions and discussion



CONTROVERSIES

- Posting of ministerial press releases and transcripts on departmental websites
- Pre-election consultation and request from the Opposition for briefing
- Government appointments
- Policy announcements during the election campaign
- Government advertising
- Grants



THE 2012 QUEENSLAND STATE ELECTION

Political issues:

- When would the conventions apply from
- Appointment of the Crime and Misconduct Commission head
- Free public transport

Bureaucratic issues:

- Communication's campaigns
- Technical issues and Executive Council
- Use of government facilities
- Responding to the Flood Commission of Inquiry Report



TUGAN BY-PASS

For discussion:

- What were the issues highlighted by the Tugun by-pass case?
- What were the implications for public servants interpreting conventions in a heated political environment?
- How might the controversy have been avoided?
- What were the lessons for Queensland public servants and other government decision-makers?

CHALLENGES IN APPLICATION

- The emergence of the political office and the desire to maximise political advantage during election campaigns
- Rise of executive power and the move away from Parliamentary accountability
- Long term incumbency and the challenges of managing these relationships
- Loss of 'craft' skills and the capacity to apply precedent and judgement
- Emergence of new issues, such as the internet, and formulating new responses on how to deal with them



LENGTHY TRANSITIONS

- Caretaker period ends when a new government is formed
- In the event of a hung Parliament, this could take a number of weeks
- Need for continuity of administration
- Increased chance of crisis and the need for bi-partisan decision-making



JUDGMENT

- Application relies on judgment, knowledge of precedents and a desire to see the continuation and upholding of the convention
- However, interpretation is inevitably subjective, situational and context dependent
- But the management of them ultimately falls to senior officials to apply the caretaker principles and defend such judgments in the contested atmosphere of an election campaign

Questions and discussion