



# Legislative Assembly for the Australian Capital Territory

Select Committee on Caretaker  
Conventions

# Inquiry into Caretaker Conventions

Legislative Assembly for the Australian Capital Territory  
Select Committee on Caretaker Conventions

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Approved for publication

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Report 1  
11th Assembly  
February 2026



# About the committee

## Establishing resolution

At its meeting on Wednesday, 5 March 2025, the Assembly passed the following resolution:

‘That:

- (1) this Assembly notes that:
  - (a) sections 20C and 20D of the *Financial Management Act 1996*, which outlines the purpose and contents of the pre-election budget update, and specifically subsection 20D(1)(b) which states that “the purpose of a pre-election budget update for an election is...to give the electorate an accurate picture of the Territory’s financial position before the election”;
  - (b) sections 20C and 20D serve to ensure that there is a symmetry of information regarding the state of the ACT Government’s financial circumstances between the Cabinet, other members of the Government, other non-government Members of the Assembly, candidates for election, and the general public, during an election campaign and any post-election parliamentary negotiations;
  - (c) this is one of the legislated principles that underpins the Caretaker Conventions, which ensures that the ACT Public Service (ACTPS) both is and is seen to be apolitical. The provision of new information to a minister which departs from the assumptions of the pre-election budget update, without also briefing the leaders of other parties and any non-party Members, would necessarily be a breach of the Caretaker Conventions;
  - (d) during annual reports hearings on 20 February 2025, the Minister for Health advised that her office received preliminary activity data for July and August 2024 on 4 October 2024 from the Chief Executive Officer of Canberra Health Services, that the organisation was at risk of running above budget due to increased demand. This information was not provided to the representatives of other political parties or candidates. The preliminary data was tabled during annual report hearings along with the covering email;
  - (e) the 2024 *Guidance on Caretaker Conventions*, was authored and published by ACTPS, and provided by the ACTPS to the Members of the Legislative Assembly, and made publicly available by the ACTPS. The Caretaker Conventions set out the conventions for the ACTPS to follow during caretaker; and
  - (f) the 2024 *Guidance on Caretaker Conventions* provided advice on “Requests by Ministers of directorates and agencies” (section 3(f)) and “Consultation with public servants by the opposition and recognised parties in the Legislative Assembly” (section 4(f)). The Guidance did not include advice on the provision of factual information to ministers or their offices on the public servant’s own initiative;
- (2) a Select Committee on Caretaker Conventions be appointed to examine:

- (a) the development of a continuing resolution for the operation of caretaker conventions in the ACTPS;
  - (b) ensuring universal confidence in the apolitical nature of the public sector in the lead up to and during election campaigns;
  - (c) ensuring symmetry of information between parties participating in post-election negotiations on confidence and supply (if applicable);
  - (d) the purpose and timing of pre-election budget updates under section 20D(1) of the *Financial Management Act 1996*, and broad availability of any relevant new information about the state of the ACT economy and government finances subsequent to its publication;
  - (e) the timing and processes governing how ministers and their non-government counterparts are provided with and/or consulted with where laws require that briefings be urgently provided, or decisions urgently sought;
  - (f) the ability for non-government parties, Members and candidates to seek briefings from the ACTPS, exclusive of ministers and their staff, on matters of facts and the machinery of government during a period of up to six months preceding the pre-election period;
  - (g) whether further clarity or guidance is needed in relation to what information the ACTPS may provide to ministers and their offices during the caretaker period;
  - (h) any relevant analysis or critique of the 2024 *Guidance on Caretaker Conventions* as published by the Chief Minister, Treasury and Economic Development Directorate;
  - (i) the detailed practices of caretaker conventions as adopted by the Commonwealth and other Australian states, including consideration of the length of the caretaker period; and
  - (j) any other relevant matter;
- (3) the Committee shall report to the Assembly by the last sitting day of 2025;
- (4) the Committee be composed of:
- (a) one Member to be nominated by the Labor Party;
  - (b) one Member to be nominated by the Liberal Party;
  - (c) one Member to be nominated by the ACT Greens; and
  - (d) Members of the Fiona Carrick Independents Party and Independents for Canberra Party may also nominate;
- (5) membership of the select committee to be notified in writing to the Speaker within two hours of this motion passing; and
- (6) the ACT Greens Party member shall be chair of the Committee.<sup>1</sup>

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<sup>1</sup> ACT Legislative Assembly, Minutes of Proceedings, No 9, 5 March 2025, pp 112–114.

At its meeting on Tuesday, 21 October 2025, the Assembly passed the following resolution:

‘That, notwithstanding the terms of the Assembly’s motion of 5 March 2025, the Select Committee on Caretaker Conventions present its report by 26 February 2026.’<sup>2</sup>

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<sup>2</sup> ACT Legislative Assembly, *Minutes of Proceedings, No 35*, 21 October 2025, p 483.

## Committee members

Mr Shane Rattenbury MLA, Chair

Ms Leanne Castley MLA, Deputy Chair

Mr Taimus Werner-Gibbings MLA

## Secretariat

Katie Langham, Committee Secretary

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# Acronyms & Abbreviations

Acronym or Abbreviation	Long form
ACT	Australian Capital Territory
ACTPS	ACT Public Service
BAU	Business As Usual
Caretaker Guidance	<i>2024 General Election Guidance on Caretaker Conventions</i>
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
Cth.	Commonwealth
FM Act	<i>Financial Management Act 1998 (ACT)</i>
FOI	Freedom of Information
MLA	Member of the Legislative Assembly
NSW	New South Wales
NT	Northern Territory
OLA	Office of the Legislative Assembly of the ACT
PBO	Parliamentary Budget Office
PEBU	Pre-Election Budget Update
Qld.	Queensland
SA	South Australia
Tas.	Tasmania
Vic.	Victoria
WA	Western Australia

# Recommendations

## Recommendation 1

The Committee recommends that the ACT Government table a copy of 2028 Caretaker Guidance by the end of May 2028.

## Recommendation 2

The Committee recommends that the Assembly Committee post-2028 election inquiry include in its terms of reference the usefulness of the tabling of the caretaker guidance and what actions should be taken ahead of the 2032 election. This should include consideration of whether the Caretaker Guidance should be a product of the Assembly, a disallowable instrument, or formalised in legislation.

## Recommendation 3

The Committee recommends that the guidance on caretaker conventions provide further clarity on which matters of ‘factual information’ are to be communicated to ministers and/or other political parties.

## Recommendation 4

The Committee recommends that the guidance on caretaker conventions include further information as to the responsibilities of ministers and the circumstances in which ministers may have an obligation to inform other MLAs of significant matters.

## Recommendation 5

The Committee recommends that the guidance on caretaker conventions provide further information about the circumstances in which the Head of Service may commence working with the leader of a political party as the Chief Minister (noting that election night speeches, media coverage, or their own interpretation of the results may or may not be a reasonable or sufficient basis).

## Finding 1

The Committee finds that the ACT Government’s decision not to provide the health system demand data it had received to other parties during the caretaker period meant this information could not be considered by the community prior to the election. This can be avoided by ensuring that factual information provided in the caretaker period is made publicly available.

## Recommendation 6

The Committee recommends that factual information that is provided by the ACT Public Service to ministers during caretaker should be published at the same time, to ensure equal access to factual information during the caretaker period.

## **Finding 2**

The Committee finds that, if it is the preference of the Assembly to have a full quarter of financial data to inform the Pre-Election Budget Update (PEBU), the ACT Government would need to consider introducing legislation to permanently change the dates of both the PEBU and the election to occur later than they are currently scheduled.

## **Finding 3**

The Committee finds that existing caretaker conventions as observed in the Australian Westminster system result in an imbalance of information between parties during post-election negotiations to form government.

## **Recommendation 7**

The Committee recommends that the Chief Minister should be required to table both the Incoming Government Brief and the Alternate Government Brief on the first day of sitting, with appropriate redactions to preserve the privacy of any officials named in the Brief.



# 1. Introduction

## Conduct of the inquiry

- 1.1. The Select Committee on Caretaker Conventions (the Committee) issued a media release on 24 March 2025 calling for public submissions by 9 May 2025. Invitations to make submissions to the inquiry were also emailed directly to stakeholders.
- 1.2. The Committee received four submissions. These are listed in **Appendix A**.
- 1.3. The Committee held public hearings on Wednesday, 11 June 2025 and Thursday, 2 October 2025. Witnesses who appeared at the hearings are listed in **Appendix B**.
- 1.4. Committees began collecting information on the gender of witnesses in April 2023, in response to an audit by the Commonwealth Parliamentary Association. The aim is to determine whether committee inquiries are meeting the needs of, and allowing the participation of, a range of genders in the community. Participation is voluntary and there are no set responses. A table showing the distribution of witness gender is at **Appendix C**.
- 1.5. Twenty-six questions were taken on notice during the public hearings. These are listed in **Appendix D**.
- 1.6. A jurisdictional comparison of Australian caretaker conventions is provided at **Appendix E**.

## Background

- 1.7. At 12.00 am on 13 September 2024, the ACT Government entered a caretaker period ahead of the ACT General Election on 19 October 2025.<sup>3</sup> During this period, the ACT Government observed ‘a series of accepted practices’, known as caretaker conventions, which seek to ensure the government’s actions did not ‘bind an incoming government and limit its freedom of action.’<sup>4</sup>
- 1.8. The caretaker period ended on 6 November 2024 with the election of the Chief Minister and return of the ACT Labor Government on the first sitting day of the Eleventh Assembly.<sup>5</sup>
- 1.9. On 6 February 2025, the ACT Government introduced the Appropriation Bill 2024–2025 (No 2)<sup>6</sup>, providing an additional \$250,006,000 to the ACT Local Hospital Network following an unanticipated increase in service demand and costs in the first half of the financial year.<sup>7</sup>
- 1.10. It was later revealed on 20 February 2025 that the Minister for Health’s office had been provided preliminary data in early October, with a covering email indicating that the increased activity was at risk of exceeding the funding allocated to Canberra Health

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<sup>3</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, p 2.

<sup>4</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, p 2.

<sup>5</sup> ACT Legislative Assembly, *Minutes of Proceedings, No 1*, 6 November 2024, p 3.

<sup>6</sup> Mr Chris Steel MLA, Treasurer, *Debates*, 6 February 2025, pp 254–255.

<sup>7</sup> Appropriation Bill 2024–2025 (No 2), Sch 1.

Services (CHS).<sup>8</sup> This information was not shared with other political parties or candidates prior to the election.<sup>9</sup>

- 1.11. This Committee was formed in response to concerns raised in the Assembly about the lack of symmetry of information across political parties and the potential impact of these actions on the apolitical nature of the ACT Public Service (ACTPS) and the integrity of the electoral process.<sup>10</sup>
- 1.12. Since the Committee's formation, documents released under freedom of information (FOI) have raised additional questions about the Executive's use of the ACTPS and Territory assets for political purposes during the caretaker period, and the proper application of the caretaker conventions by senior executives in the ACTPS.<sup>11</sup>

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<sup>8</sup> *Exhibit 1: Correspondence from CHS to Health Minister's Office*, p 1.

<sup>9</sup> Ms Rachel Stephen-Smith MLA, Minister for Health, Standing Committee on Social Policy, *Committee Hansard*, 20 February 2025, p 311.

<sup>10</sup> Mr Andrew Braddock MLA and Mr Thomas Emerson MLA, *Debates*, 5 March 2025, pp 395–396 and 398–399.

<sup>11</sup> Mr Andrew Braddock MLA, 'Yes, Minister – Even in Caretaker', *Media Release*, 21 August 2025.

## 2. Caretaker conventions

2.1. Caretaker conventions seek to ensure governments do not make decisions during an election period that may bind an incoming government.<sup>12</sup> Broadly the conventions seek to prevent governments from:

- making major policy decisions that are likely to commit the incoming government to a specific action or position;
- making significant appointments; or
- entering into major contracts or undertakings.<sup>13</sup>

2.2. The conventions guide ‘ministers, the Opposition and public servants about how the business of government should be conducted during the caretaker period.’<sup>14</sup> As the Office of the ACT Legislative Assembly noted in its submission:

At their core, the caretaker conventions are shared norms that apply in the Westminster tradition that seek to ‘moderate the substantial advantages of incumbency by constraining the power of the political executive during the election campaign’. The conventions acknowledge that while the levers of executive government must continue to operate effectively during an election period, decisions should not be taken that would improperly bind a future alternative government.<sup>15</sup> [citations omitted]

2.3. Application of the caretaker conventions requires ministers and the public service to exercise judgement.<sup>16</sup> As Menzies and Tiernan explain, this is a complex task:

Applying the conventions can also be complex because difficult judgements sometimes have to be made about whether an action will cause a breach of those underlying principles. Unlike laws, the interpretation of which can be tested in courts, conventions reflect the beliefs and practices of political actors — their interpretation is fluid, often contested and subject to a dynamic and constantly evolving political environment. New challenges or technical possibilities — such as the use of the departmental internet by the incumbent party — can arise during an election campaign. The administration of caretaker conventions depends on a body of corporate knowledge about past application combined with sound judgement to deal with new issues as they arise.<sup>17</sup>

2.4. Initially, these conventions were focused on regulating ministerial behaviour to support the smooth transition of power where there is a change in government following an election.

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<sup>12</sup> ACT Government, *Submission 3*, p 4.

<sup>13</sup> ACT Government, *Submission 3*, p 4.

<sup>14</sup> Jennifer Menzies and Anne Tiernan, *Caretaker Conventions in Australasia: Minding the Shop for Government*, 2nd edition, Australian National University Press, Canberra, 2014, p 13.

<sup>15</sup> Office of the Legislative Assembly of the ACT, *Submission 2*, p 1.

<sup>16</sup> Mr Peter Garrison, Solicitor-General for the ACT, *Committee Hansard*, 11 June 2025, pp 31–32.

<sup>17</sup> Jennifer Menzies and Anne Tiernan, *Caretaker Conventions in Australasia: Minding the Shop for Government*, 2nd edition, Australian National University Press, Canberra, 2014, p 14.

However, over time, greater clarity has been provided as to the role of the public service during elections through detailed guidance material.<sup>18</sup>

- 2.5. The Committee received evidence clarifying the term ‘caretaker conventions’ as distinct from information transparency and guidance documents.<sup>19</sup> For clarity the Committee has used the term ‘Caretaker Guidance’ to refer to the guidance materials issued by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

## ACT Caretaker Guidance

- 2.6. The ACT *2024 General Election Guidance on Caretaker Conventions* (Caretaker Guidance) sets out responsibility for both the ACT Public Service (ACTPS) and ministers during the caretaker period.<sup>20</sup> It explains that major policy decisions or contracts, appointments, and representation of the ACT at intergovernmental meetings should be avoided during the caretaker period, and deferred where possible. It also states that day-to-day or routine operations of government may still be undertaken, for example: contracts for routine matters of administration; the making of short-term appointments; the seeking of factual information; and meetings of boards and committees.<sup>21</sup>

- 2.7. The Caretaker Guidance also lays out contingencies for urgent matters, saying that if the government were required to make, for example, a major policy decision which could potentially commit an incoming government, that this be done in consultation with ‘the relevant opposition and cross bench spokesperson.’<sup>22</sup>

- 2.8. In the chapter for directorates and agencies, the Caretaker Guidance says:

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 (PSM Act) takes on added significance.<sup>23</sup>

- 2.9. As well as advising on how to uphold the apolitical nature of the ACTPS with its dealings with government, the Caretaker Guidance also has a section on consultation with the Opposition and recognised parties of the Legislative Assembly. This section outlines that the custom of non-government members initiating consultation with the ACTPS through the relevant Minister’s office is still followed, that these discussions should generally focus on the machinery of government and administration, and the subject of such briefings is to be kept confidential. It also states that ‘agency officials may comment on the practicalities of implementing and administering the policies that have been proposed by the relevant member.’<sup>24</sup>

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<sup>18</sup> Jennifer Menzies and Anne Tiernan, *Caretaker conventions in Australasia: minding the shop for government*, 2nd edition, Australian National University Press, Canberra, 2014, pp 3–4.

<sup>19</sup> Mr Mark Fletcher, *Submission 4*, pp 1–2.

<sup>20</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*.

<sup>21</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, pp 1–4.

<sup>22</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, pp 1–4.

<sup>23</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, p 4.

<sup>24</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, p 6.

## Jurisdictional comparison

- 2.10. All Australian state and territory governments issue guidance material for ministers and the public service ahead of their elections. Like the ACT, this guidance largely follows the advice set out by the Commonwealth for federal elections, however regional context allows for some variations.<sup>25</sup>
- 2.11. Areas of notable difference include the length of the caretaker period. The ACT and Tasmania tend to have longer caretaker periods due to their use of the Hare Clarke electoral system, which can result in a longer period of vote counting before which the composition of the parliament becomes clear.<sup>26</sup> The ACT and Tasmanian caretaker periods in 2024 extended to 55 and 57 days respectively, compared to approximately a month for the other jurisdictions.<sup>27</sup>
- 2.12. Another difference in the ACT is the end of the caretaker period, which is taken to be at the swearing-in of the Chief Minister, which occurs on the first sitting day of the new Assembly after an election. In comparison, most other jurisdictions take their cue from the Commonwealth guidance, which allows for the caretaker period to end when ‘the election result is clear’. This could be by the concession of the opposition or by enough seats being called for the government, or, if there is a change of government, when the new government is appointed.<sup>28</sup>
- 2.13. A detailed cross-jurisdictional comparison of caretaker conventions, and other relevant election period considerations, can be found at **Appendix E**.

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<sup>25</sup> Jennifer Menzies and Anne Tiernan, *Caretaker conventions in Australasia: minding the shop for government*, 2nd edition, Australian National University Press, Canberra, 2014, p 19.

<sup>26</sup> ACT Government, *Submission 3*, p 3.

<sup>27</sup> See Appendix E.

<sup>28</sup> See Appendix E.

### 3. 2024 caretaker period

- 3.1. During this inquiry, the Committee received evidence of events during the caretaker period that raised questions regarding the application of the caretaker conventions.

#### Hospital activity data

- 3.2. On 4 October 2024, Canberra Health Services (CHS) contacted the office of the Minister for Health to advise that hospital activity had increased during July and August of that year. This email included several tables containing preliminary data that was provided to give ‘an indication of current trajectory of activity growth over 2023-24’, with a note that there was a ‘growing gap’ between the planned activity and what had been funded.<sup>29</sup>

- 3.3. This information was relayed verbally to the Minister, but was not shared further as it was categorised as routine and unremarkable:

[It was] BAU [Business As Usual] information of the kind that we would expect to be regularly briefed on in a non-caretaker period—really factual information. As minister, it was the kind of thing that you would expect to get as BAU, factual information. It was not the kind of thing that you would necessarily be talking to people about, in the normal course of events.<sup>30</sup>

- 3.4. The Minister advised that while the information was ‘interesting’,<sup>31</sup> the preliminary nature of the data meant there was no decision to be made at that time:

...at that point, in early October, when the data was for July and August, there was no way that we could have known what that trend over the first six months of the financial year would look like, what the potential financial implications of that would be, and what choices would be before any government that was incoming at that time of considering the midyear review.<sup>32</sup>

- 3.5. She reiterated that she had no obligation under the Caretaker Guidance to release that information and noted that the preliminary data reflected what she had previously said publicly, i.e. ‘The health service is very busy. We have seen an uptick in activity during winter.’<sup>33</sup> The Minister advised the pressure on the health system was also reflected in the 2024–25 ACT Budget in both the percentage of new spending allocated to health and as an identified fiscal risk.<sup>34</sup>

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<sup>29</sup> Standing Committee on Social Policy, Inquiry into Annual and Financial Reports 2023–24, *Exhibit 1: Correspondence from CHS to Health Minister’s Office*, p 1.

<sup>30</sup> Ms Rachel Stephen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, p 13.

<sup>31</sup> Ms Rachel Stephen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, p 12.

<sup>32</sup> Ms Rachel Stehen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, p 14.

<sup>33</sup> Ms Rachel Stephen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, pp 14, 17 and 26.

<sup>34</sup> Ms Rachel Stehen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, pp 14–15.

- 3.6. Members of the Assembly questioned why this information was provided to the Minister during the caretaker period if no decision was required.<sup>35</sup> They also expressed the view that it should have been shared with other political parties and the public, and by not doing so it created a perception of ‘political advantage.’<sup>36</sup>
- 3.7. The Chief Minister was advised of this increased hospital activity as part of a weekly report on 7 October 2024.<sup>37</sup> In early December, ‘CHS cost pressure’ was considered by the Expenditure Review Committee of Cabinet.<sup>38</sup>
- 3.8. On 20 March 2025, the Assembly passed the Appropriation 2024–2025 Bill (No 2).<sup>39</sup> The majority of the additional appropriation, \$250,006,000, was allocated to the Local Hospital Network, which had experienced increased costs associated with unexpected growth in patient presentations between 1 July and 31 December 2024, as well as a reduction in expected revenue.<sup>40</sup>

### Committee comment

- 3.9. The Committee notes the Minister for Health’s position that at the time she received the hospital demand data, it was unknown whether this trend would continue beyond the winter period, and what impact it would have on the position of the budget. The Committee also notes the view amongst some parties that the information provided by CHS was significant and should have been shared with other members and the public.
- 3.10. While the caretaker conventions did not require this information to be shared, the Committee considers it was prescient to health funding pressures which later played a large role the supplementary appropriation which was necessary in early 2025, and it would have been prudent for the Minister to more explicitly share this information with other parties.

## Ministerial activities during the caretaker period

- 3.11. During this inquiry, several documents relating to the caretaker period were released by the ACT Government in response to a freedom of information request.<sup>41</sup> The Committee considered some of these documents during its hearing on 2 October 2025.<sup>42</sup>

### Social media

- 3.12. On 12 October 2024, the Chief Minister made a social media post about the opening of the refurbished Fitzroy Pavillion. The post included images and factual details of the pavilion’s

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<sup>35</sup> Mr Andrew Braddock MLA, *Debates*, 5 March 2025, p 393.

<sup>36</sup> Ms Leanne Castley MLA, *Debates*, 5 March 2025, p 398.

<sup>37</sup> Mr Andrew Barr, Chief Minister, *Committee Hansard*, 11 June 2025, p 39.

<sup>38</sup> Mr Chris Steel MLA, Treasurer, *answer to QTON 5*, 11 June 2025 (received 1 August 2025), p 2.

<sup>39</sup> ACT Legislative Assembly, *Minutes of Proceedings No 13*, 20 March 2025, pp 170–171.

<sup>40</sup> Standing Committee on Public Accounts and Administration, *Report 1: Inquiry into Appropriation 2024–2025 Bill (No 2)*, March 2025, pp 4–5.

<sup>41</sup> See Freedom of Information decision CMTEDDFOI 2025-088. Chief Minister, Treasury and Economic Development Directorate, *Disclosure Log 2025*, <https://www.cmtedd.act.qov.au/functions/foi/disclosure-log-2025> (accessed 9 January 2026).

<sup>42</sup> *Proof Committee Hansard*, 2 October 2025, pp 45–65.

capacity and amenities, as well as contact information for the pavilion.<sup>43</sup> On the same day, an ACT Labor candidate issued a Facebook post including the same information, as well as a photo with the Chief Minister and other images of the facilities.<sup>44</sup>

3.13. The Committee queried whether other parties had been made aware of the building's completion during the caretaker period. The Committee also queried whether Ministerial resources had enabled the facilitation of promotional materials for the ACT Labor Party and candidates through access to the pavilion that was not available to other parties or candidates.<sup>45</sup> The Chief Minister advised that the expected completion date of August 2024 was widely known and had been provided earlier that year in both a media release and a response to a question on notice from the Shadow Minister for Multicultural Affairs.<sup>46</sup>

3.14. The Chief Minister advised the caretaker processes were followed:

...There were requests. Consistent with the caretaker guidelines, you can formally request to utilise a facility as a backdrop to a media conference for photos and to film. That is allowed. The caretaker convention process was followed. I assume, given the particular interest in the Fitzroy Pavilion expressed by some—particularly the shadow minister and members for Yerrabi—that the opportunity to have a photo at the pavilion, if they had chosen to, was available to them.<sup>47</sup>

3.15. The first official government event at the Fitzroy Pavilion occurred on 6 November 2024, following the end of the caretaker period.<sup>48</sup>

## Incoming Government Brief

3.16. On the evening of election day, 19 October 2024, the Head of Service signed a letter to the Chief Minister, congratulating him on his 're-election to the Legislative Assembly and...forthcoming re-election as Chief Minister of the ACT.'<sup>49</sup> The letter attached the Incoming Government Brief and was received by the Chief Minister's office on 21 October 2024.<sup>50</sup>

3.17. The Committee queried whether it was appropriate for the Incoming Government Brief to be sent to the Chief Minister on that date,<sup>51</sup> noting the caretaker period did not officially end until 6 November 2024 and the outcome of the election was still subject to post-election negotiations.<sup>52</sup>

3.18. In response to a question taken on notice, the Chief Minister advised:

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<sup>43</sup> *Exhibit 1*, p 12.

<sup>44</sup> *Exhibit 1*, p 13.

<sup>45</sup> Mr Shane Rattenbury MLA, Chair, Select Committee on Caretaker Conventions, *Proof Committee Hansard*, 2 October 2025, pp 64–65.

<sup>46</sup> Mr Andrew Barr MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, pp 64–65.

<sup>47</sup> Mr Andrew Barr MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, p 65.

<sup>48</sup> Mr Andrew Barr MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, p 64.

<sup>49</sup> *Exhibit 1*, p 1.

<sup>50</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 7: ACT Public Service incoming government brief*, 15 October 2025, p 2.

<sup>51</sup> *Proof Committee Hansard*, 2 October 2025, pp 48–50.

<sup>52</sup> See *Proof Committee Hansard*, 2 October 2025, p 50.

The letter from the Head of Service to me was signed on 19 October 2024 after public ‘concession’ and ‘victory’ speeches were broadcast on media channels. This information included the concession speech made by the Leader of the ACT Liberals broadcast widely on media at 9:30pm. Media reporting also included statements from the ABC’s chief election analyst Antony Green that there was ‘no viable path for the Canberra Liberals... to form government’.<sup>53</sup>

3.19. The Incoming Government Brief included 37 briefs ‘that may require immediate action (e.g. within the first 30 days of government forming’. The unredacted dates against these briefs range from ‘ASAP after Government is formed’ through to 13 December 2024.<sup>54</sup>

3.20. The Committee queried whether a decision was made on any of these briefs. In response to a question taken on notice, the Chief Minister advised:

My response was provided to all briefs by 28 October 2025 with a range of responses including ‘noted’, ‘agreed’, ‘deferred to the directorate’ and ‘not agreed’. The briefs provided were aligned with Caretaker Conventions.

Of the 37 briefs provided 10 were agreed or agreed with comment or noting; 1 was not agreed; 14 were noted and 11 were noted with an additional comment (including please discuss, refer or defer to Minister and/or directorate).<sup>55</sup>

### Committee comment

3.21. The Committee is mindful that the caretaker conventions rely on the exercise of judgement, informed by individual experience and guidance materials provided by the ACT Public Service. However, the Committee notes that the provision of the Incoming Government Briefs during the caretaker period meant the government had access to additional information during the post-election negotiations. This is discussed further at chapter five.

3.22. Furthermore, the Committee considers that the social media posts at Fitzroy Pavillion when the final completion date had not been announced, created a perception that government candidates had easier access to government facilities during the election campaign.

3.23. While it does not consider the actions above represent breaches of the caretaker conventions, the Committee is of the view that these events signify the need for further guidance and transparency to improve confidence in the application of the caretaker conventions.

3.24. To this end, the Committee has made several recommendations in the following chapters for greater transparency of factual information, as well as the inclusion of further detail in the Caretaker Guidance document.

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<sup>53</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 16*, 2 October 2025 (received 15 October 2025), p 2.

<sup>54</sup> *Exhibit 1*, pp 3–4.

<sup>55</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 8*, 2 October 2025 (received 15 October 2025), p 2.

## 4. Codification

- 4.1. While the Committee’s terms of reference specifically identified a continuing resolution of the Assembly as a method of codification,<sup>56</sup> the Committee canvassed a variety of options, including whether a legislative instrument might be appropriate.<sup>57</sup>
- 4.2. The Office of the Legislative Assembly of the ACT (OLA) advised that while the Assembly has the power to pass continuing resolutions, these apply only to the activities of the Assembly itself and cannot be used to regulate the ACT Public Service (ACTPS).<sup>58</sup>
- 4.3. In its submission, OLA highlighted the importance of identifying the ‘chief mischief’ which codification seeks to address,<sup>59</sup> suggesting the following options:
  - If the committee apprehends that the primary mischief requiring attention is the need to ensure that certain kinds of information should be provided by the government to non-executive members prior to an election, this can be readily achieved by resolution (although it may also be legislated).
  - If the committee considers that there is some broader deficiency in pre-election or caretaker arrangements that should be remedied by the imposition of additional legal obligations on ministers or officials, legislation would be required.
  - And finally, if the committee considers that there are aspects of the ACT Government’s guidance on caretaker conventions that could be strengthened in certain areas, then such a recommendation could be put to government.<sup>60</sup>
- 4.4. In light of the events that led to this inquiry, the Committee considered whether action should be taken to codify some or all of the responsibilities and requirements contained within the Caretaker Guidance.
- 4.5. The ACT Government advised it does not support codifying the caretaker conventions, highlighting the flexibility of ‘non-statutory caretaker frameworks to accommodate unforeseen challenges effectively without undermining accountability, neutrality, or public confidence.’<sup>61</sup>
- 4.6. The Chief Minister spoke to the example of the COVID-19 emergency during the 2020 caretaker period, during which he ‘attended national cabinet meetings as an observer so that we [the ACT Government] were up to date on what was happening at the national level.’<sup>62</sup>

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<sup>56</sup> Select Committee on Caretaker Conventions, *Terms of Reference: 2(a)*, p 2.

<sup>57</sup> Mr Shane Rattenbury MLA, Chair, Select Committee on Caretaker Conventions, *Committee Hansard*, 11 June 2025, pp 28–30.

<sup>58</sup> Office of the Legislative Assembly of the ACT, *Submission 2*, p 2.

<sup>59</sup> Office of the Legislative Assembly of the ACT, *Submission 2*, p 2.

<sup>60</sup> Office of the Legislative Assembly of the ACT, *Submission 2*, p 3.

<sup>61</sup> ACT Government, *Submission 3*, p 7.

<sup>62</sup> Mr Andrew Barr MLA, Chief Minister, *Committee Hansard*, 11 June 2025, p 37.

- 4.7. Mr Peter Garrison, ACT Solicitor-General, spoke to the nature of conventions in responsible government, highlighting the importance of judgement and flexibility:

The essence of it is that the caretaker conventions focus on the exercise of restraint and judgement by the elements of government. It is that exercise of restraint and judgement which militates, in my respectful view, against formalising them through some form of legally binding obligation because that is not what the conventions are about and one of the key elements of responsible government is that very flexibility in the way conventions operate.<sup>63</sup>

- 4.8. Mr Mark Fletcher was supportive of efforts to provide greater transparency of information during the caretaker period, but considered this could be done outside of a codification process.<sup>64</sup> This is discussed further in chapter five.
- 4.9. The Australian Multicultural Action Network Inc was supportive of providing additional clarity in guidance materials addressing the ‘provision of unsolicited factual information’.<sup>65</sup>

### Committee comment

- 4.10. The Committee considers the events that led to this inquiry would not be addressed through the introduction of a continuing resolution. They concerned the exercise of judgement and application of the caretaker conventions by ministers and the ACTPS, which fall outside the purview of an Assembly resolution. In contrast, codifying the Caretaker Guidance through a statutory instrument would ensure accountability for the application of the caretaker conventions by ministers and ACTPS staff.
- 4.11. The Committee recognises the benefits of flexibility during the caretaker period to enable governments to adapt to meet urgent situations. For this reason, it is hesitant to recommend codification through legislation. However, the events that led to this inquiry demonstrate that further guidance and transparency is needed to ensure there is confidence in how the caretaker conventions are applied.
- 4.12. Tabling the Caretaker Guidance ahead of the next election will ensure the requirements are more widely known and understood by all members of the Assembly. It will also enable a degree of expectation management in regard to the behaviour of the executive branch during election periods.
- 4.13. The Committee recommends that the Assembly review the effectiveness of this measure following the 2028 election, to determine whether further codification steps are required. Undertaking this as part of the post-2028 election inquiry would offer efficiencies over the establishment of a separate select committee.

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<sup>63</sup> Mr Peter Garrison, Solicitor-General for the ACT, *Committee Hansard*, 11 June 2025, p 30.

<sup>64</sup> Mr Mark Fletcher, *Committee Hansard*, 11 June 2025, pp 7–9.

<sup>65</sup> Australian Multicultural Action Network Inc., *Submission 1*, p 2.

### Recommendation 1

The Committee recommends that the ACT Government table a copy of 2028 Caretaker Guidance by the end of May 2028.

### Recommendation 2

The Committee recommends that the Assembly Committee post-2028 election inquiry include in its terms of reference the usefulness of the tabling of the caretaker guidance and what actions should be taken ahead of the 2032 election. This should include consideration of whether the Caretaker Guidance should be a product of the Assembly, a disallowable instrument, or formalised in legislation.

## Amendments to the Caretaker Guidance

- 4.14. Based on the events that occurred during the 2024 caretaker period (see discussion at chapter three), the Committee considers greater clarity may be required within the Caretaker Guidance to support the exercise of judgement by ministers and the ACTPS.

### Public service proactively sharing information with ministers

- 4.15. During the caretaker period, ministers continue to perform their ministerial responsibilities.<sup>66</sup> This supports the continuation of the ‘ordinary business of government service delivery and administration’.<sup>67</sup>
- 4.16. The Caretaker Guidance provides clear instructions on when and how ministers can seek factual information from the public service.<sup>68</sup> However, it is silent on when the public service should proactively share information with ministers, and when this information should also be shared with other political parties.<sup>69</sup> This silence can lead to different approaches and expectations as to the treatment of routine information.
- 4.17. The Committee received evidence that the City Renewal Authority planned a briefing with the Leader of the Opposition regarding the anticipated signing of a contract of sale during the caretaker period.<sup>70</sup> In a response to a question taken on notice, it was acknowledged the sale was ‘routine’, however ‘given the expected timing within the caretaker period, a briefing was proposed for full transparency with the Leader of the Opposition.’<sup>71</sup> The briefing ultimately did not take place as the sale was not completed during the caretaker period as was previously expected.<sup>72</sup> As a further contrast, hospital activity data provided

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<sup>66</sup> ACT Government, *Submission 3*, p 4.

<sup>67</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, p 1.

<sup>68</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, p 3.

<sup>69</sup> The Minister for Health highlighted this in the Assembly when speaking to the motion to create this inquiry. See ACT Legislative Assembly, *Debates*, 5 March 2025, p 399.

<sup>70</sup> The briefing request was subsequently withdrawn due to delays finalising the documents meaning the sale occurred outside the caretaker period. See Mr Andrew Barr MLA, Chief Minister, *answer to QTON 23*, 2 October 2025 (received 15 October 2025), p 2.

<sup>71</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 22*, 2 October 2025 (received 15 October 2025, p 1.

<sup>72</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 23*, 2 October 2025 (received 15 October 2025), pp 1–2.

to the Minister for Health's office with a note regarding 'a growing gap between what's been planned for and funded' was not provided to other parties.<sup>73</sup>

- 4.18. These examples highlight the different judgements that can be made about whether it is necessary or appropriate for the ACTPS to brief the opposition or other members of the Assembly on information proactively provided to ministers during the caretaker period.
- 4.19. The Committee queried whether there was a particular threshold after which information would be shared with ministers during the caretaker period. Officials advised:

We approach caretaker with the view that the minister remains the minister. Our contact with the minister is reduced during that timeframe in terms of our regular face-to-face briefings and a range of other things. But as factual, operational information comes to light, I would continue to have those conversations with either the minister or her office. I do not know I could define a particular threshold to say, "These things I would; these things I would not." I would exercise judgment from issue to issue.<sup>74</sup>

- 4.20. The Committee also queried when non-urgent information would be disclosed by ministers to the public or other parties during the pre-election period.<sup>75</sup> The Minister for Health advised:

Clearly, if decisions need to be taken that will bind a future government, not only are the public service obligated under caretaker conventions, but the convention is that ministers, while remaining ministers through the duration of the caretaker period, would not take a decision that will bind an incoming government without consulting at least with the opposition, the only other party that is likely to form government.<sup>76</sup>

- 4.21. In relation to how the caretaker conventions would apply to factual information like the hospital activity data received by her office in early October 2024, the Minister advised:

... this rough information would give you some indication that some decisions might need to be made by an incoming government, but exactly what those decisions would be, or the extent of them, would be a matter for the incoming government. That is the case with a whole bunch of things that you are aware of prior to the election. Sometimes you have asked officials, "Please do some more work on this to be ready to brief an incoming government."<sup>77</sup>

- 4.22. The Committee sought guidance from the Chief Minister about whether any decisions were made during the caretaker period following his receipt of the Incoming Government Brief.<sup>78</sup>

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<sup>73</sup> *Exhibit 1*, p 1.

<sup>74</sup> Mr Dave Pepper, Chief Executive Officer, Canberra Health Services, *Committee Hansard*, 11 June 2025, p 21.

<sup>75</sup> Ms Leanne Castley MLA, *Committee Hansard*, 11 June 2025, p 16.

<sup>76</sup> Ms Rachel Stephen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, p 16.

<sup>77</sup> Ms Rachel Stephen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, pp 17–18.

<sup>78</sup> Mr Shane Rattenbury MLA, Chair, Select Committee on Caretaker Conventions, *Proof Committee Hansard*, 2 October 2025, p 58.

The Chief Minister confirmed that a response was returned on all briefs on 28 October 2024,<sup>79</sup> but that these were consistent with the caretaker conventions and did not bind an incoming government.<sup>80</sup>

- 4.23. Chief Minister, Treasury and Economic Development (CMTEDD) officials advised that support is provided to the public service to exercise judgment in line with the caretaker conventions, including briefings to senior executives, guidance material and training. Where questions do arise, a centralised support service is available. The Committee heard that approximately 150 requests for advice were received during the 2024 caretaker period.<sup>81</sup>

### Committee comment

- 4.24. The Committee acknowledges that the ACTPS must continue to provide factual information to ministers during the caretaker period to enable them to undertake their ministerial responsibilities. However, a lack of clarity on what factual information should be proactively provided to ministers, and when this should be shared with other political parties, results in uncertainty for ministers, the ACTPS and other members of the Assembly.
- 4.25. Furthermore, the Hare Clark electoral system often results in minority governments, determined following a period of post-election negotiation between parties. Accordingly, updates to the Caretaker Guidance should support sharing of factual information with all parties, not just between the government and the Opposition.
- 4.26. This, combined with the number of requests for guidance received during the caretaker period, suggests greater clarity is needed to support the Executive and the public service in their application of the caretaker conventions. Senior executives should continue to receive training on the caretaker conventions, which should cover any amendments made to the Caretaker Guidance.

#### Recommendation 3

The Committee recommends that the guidance on caretaker conventions provide further clarity on which matters of ‘factual information’ are to be communicated to ministers and/or other political parties.

#### Recommendation 4

The Committee recommends that the guidance on caretaker conventions include further information as to the responsibilities of ministers and the circumstances in which ministers may have an obligation to inform other MLAs of significant matters.

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<sup>79</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 8*, 2 October 2025 (received 15 October 2025), p 2.

<sup>80</sup> Mr Andrew Barr MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, p 58.

<sup>81</sup> Mr Robert Wright, Acting Deputy Director-General, Office of Industrial Relations and Workforce Strategy, Chief Minister, Treasury and Economic Development Directorate, *Committee Hansard*, 11 June 2025, pp 20–21.

## Timing of the Incoming Government Brief

- 4.27. The ACT Government advised that Incoming Government Briefs are centrally coordinated by the Policy and Cabinet Division within CMTEED. Briefs, which are prepared by relevant directorates 'become available immediately following the election of the Chief Minister during the first sitting of the newly elected Legislative Assembly.<sup>82</sup> In line with the caretaker conventions, two versions of the Incoming Government Brief are prepared:

One set of briefing papers will be developed in preparation for a returned government, and a second set is developed for 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.<sup>83</sup>

- 4.28. The Head of Service signed the letter to the Chief Minister accompanying the Incoming Government Brief on 19 October 2024. When asked what would have occurred if the election resulted in a change of government, officials advised that, the draft letter and Incoming Government Brief prepared for the 'alternative leader' would have been signed 'on the same day and would have gone to the alternate leader'.<sup>84</sup>
- 4.29. The Chief Minister advised while the caretaker period ended 'in a formal sense' upon the election of the Chief Minister in the Assembly, 'in an informal sense' the caretaker period ends 'when a negotiation concludes or an outcome has been reached, in terms of certainty of who would be elected Chief Minister.'<sup>85</sup>
- 4.30. The Committee queried on what basis it was decided to send the Incoming Government Brief to the Chief Minister ahead of negotiations being finalised.<sup>86</sup> In response to a question taken on notice, the Chief Minister advised:

The decision made by the Head of Service to provide the Incoming Government Briefs to me was made on the basis of professional judgement, practice and convention and the information publicly available on the outcome of the election.<sup>87</sup>

### Committee comment

- 4.31. The *Australian Capital Territory (Self-Government) Act 1988* (Cth) provides that the Legislative Assembly elects the Chief Minister.<sup>88</sup> This is conducted on the first sitting day of the new Assembly in accordance with standing order 3.<sup>89</sup> Accordingly, while indications may be provided on, or shortly after, election night as to which party may form

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<sup>82</sup> ACT Government, *Submission 3*, p 10.

<sup>83</sup> ACT Government, *2024 General Election Guidance on Caretaker Conventions*, p 5.

<sup>84</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 24: ACT public service and Letter from Head of Service for Incoming Government*, 15 October 2025, p 2.

<sup>85</sup> Mr Andrew Barr MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, p 47.

<sup>86</sup> *Proof Committee Hansard*, 2 October 2025, pp 48–50.

<sup>87</sup> Mr Andrew Barr MLA, Chief Minister, *answer to QTON 16*, 2 October 2025 (received 15 October 2025), p 2.

<sup>88</sup> *Australian Capital Territory (Self-Government) Act 1988* (Cth), s 40(1).

<sup>89</sup> *Standing Orders and continuing resolutions of the Legislative Assembly*, 2 September 2025, standing order 3.

government, who will be elected Chief Minister is not determined until the first sitting of the new Assembly.

- 4.32. The Committee acknowledges the strong concerns of some that the Head of Service demonstrated unnecessary haste in her decision to provide the Incoming Government Brief in the timeframe she did. This may have contributed to a perception of partiality within the ACTPS, given that negotiations continued up until shortly before the election of the Chief Minister, and that there were publicly reported conversations about other possible governing formations, the early provision of Incoming Government Briefs has the potential to create imbalance in post-election discussions. This is discussed further in the next chapter.
- 4.33. The Committee considers further information should be provided in the Caretaker Guidance about under what circumstances the Incoming Government Brief should be provided to the Chief Minister following the election. While the evidence received suggests that separate guidance material may cover this process, it is unclear to what extent this guidance is available outside of the ACTPS.

### **Recommendation 5**

The Committee recommends that the guidance on caretaker conventions provide further information about the circumstances in which the Head of Service may commence working with the leader of a political party as the Chief Minister (noting that election night speeches, media coverage, or their own interpretation of the results may or may not be a reasonable or sufficient basis).

## 5. Transparency of information and post-election negotiations

- 5.1. Outside of amendments to the Caretaker Guidance, the Committee considered the transparency of information ahead of elections and the symmetry of information during post-election negotiations.

### Transparency of information

- 5.2. Mr Mark Fletcher discussed in his submission that raw data and information (which he calls ‘electoral information’) should be published in order to ‘inform policy debate and enhancing the ability of non-government parties to contest elections.’<sup>90</sup> Conversely, ‘government information’, which he categorises as information which the government uses to fulfill its functions such as analysis and strategy, is inappropriate for wider publication:<sup>91</sup>

...there simply cannot be a symmetry of information if the public service is to provide frank and fearless advice to the government of the day. The government of the day will always know what options are on the table for policy, and will make political decisions about which option is best. The public service cannot provide that advice if it places the government of the day visibly at odds with the best advice of the public service. This is entirely appropriate: apolitical advice is provided to the government, the government considers the political aspect of the advice, and the government sets the policy agenda based on the apolitical and political consideration. The loyalty of the public service demands that—within constraints—the government can make political decisions that might be at odds with the best apolitical advice. This is fundamental to democracy.<sup>92</sup>

- 5.3. The ACT Government advised against the provision of briefings by the ACT Public Service (ACTPS) to non-government members and candidates during the caretaker period. It cited several risks, including:

- an increased administrative burden and further pressure on ACTPS resources;
- the potential to compromise the perceived and actual neutrality of the ACTPS;
- the inadvertent creation of uneven or inconsistent dissemination of information across political parties; and
- disruption of ACTPS operations through the diversion of resources from essential public service functions.<sup>93</sup>

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<sup>90</sup> Mr Mark Fletcher, *Submission 4*, p 9.

<sup>91</sup> Mr Mark Fletcher, *Submission 4*, pp 7–8.

<sup>92</sup> Mr Mark Fletcher, *Submission 4*, p 8.

<sup>93</sup> ACT Government, *Submission 3*, p 8.

- 5.4. The ACT Government advised that the election costing process, which supports a briefing with the leader of each ACT political party in the lead up to the caretaker period, supports transparency and impartiality.<sup>94</sup>

## Records of activity

- 5.5. Although interactions with the ACTPS is reduced during the caretaker period, ministers are still required to administer routine government business.<sup>95</sup> As explained by Anne Twomey, it is one of the tenants of responsible government that there must always be a government in place to take responsibility for government actions, and there can be no interregnum between executives. Therefore, even a defeated government must stay in office until a new government is ready to replace it.<sup>96</sup>
- 5.6. In order to carry out these functions, to maintain ‘administrative continuity,’ ministers may continue to receive factual briefings from public servants, sign correspondence, and work with Directorate Liaison Officers.<sup>97</sup>
- 5.7. There may also be occasions in which a minister must make an urgent decision for immediate action which ‘is generally limited to genuine emergencies, urgent public safety matters, or significant unforeseen events.’<sup>98</sup>
- 5.8. In this way, communication between ministerial offices and the public service can be expected to be maintained during the caretaker period, if at a lesser volume. This can be inferred from a Freedom of Information release of correspondence between the Chief Minister, Treasury and Economic Development Directorate and ministers and/or their staff in the 2024 caretaker period, which contained several hundreds of pages of emails, briefs, and messages.<sup>99</sup>
- 5.9. These types of communications were of interest to the Committee in light of the 2024 health workloads. At the hearing on 11 June 2025, the Minister for Health was questioned about the conversations between Canberra Health Services and her office, and she confirmed that, although advisable, it was not a formal rule for all verbal conversations to be recorded:

[T]here are going to be so many verbal conversations about various things where no decision is made and no direction is given, and it is a bit of a chat through things that will then be followed up with a formal brief or with an email that then

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<sup>94</sup> ACT Government, *Submission 3*, pp 9–10.

<sup>95</sup> ACT Government, *Submission 3*, p 4.

<sup>96</sup> Anne Twomey, *The Veiled Sceptre: Reserve Powers of Heads of State in Westminster Systems*, Cambridge University Press, 2018, p 505.

<sup>97</sup> ACT Government, *Submission 3*, pp 4–7.

<sup>98</sup> ACT Government, *Submission 3*, p 7.

<sup>99</sup> See Freedom of Information decision CMTEDDFOI 2025-088. Chief Minister, Treasury and Economic Development Directorate, *Disclosure Log 2025*, <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2025> (accessed 21 January 2026).

forms the record of whatever is actually going to happen, that it would be impractical to expect that every single phone call is documented in a file note.<sup>100</sup>

5.10. She also said that there was no mechanism to record ‘a lot of conversations.’<sup>101</sup>

#### Committee comment

5.11. The Committee acknowledges the benefits offered by the election commitment costing process, however notes it does not cover factual information such as the hospital activity data which led to this inquiry.<sup>102</sup>

5.12. The Committee also accepts that some communications which are provided to the government must remain confidential, even during the caretaker period, in order to uphold the purpose of the public service to give ‘frank and fearless advice.’ However, publication of raw data and factual information during the caretaker period would help in preventing some of the concerns raised about the preliminary hospital activity data, while also providing greater transparency and access to information for the public ahead of the election.

5.13. Transparency of government activities is essential to uphold the Westminster system of responsible government. The Committee believes that factual information which is provided to ministers during the caretaker period should be systematically published, in real time, in order to inform public political debate and ensure symmetry of information for all parties during election time. This would contribute to an increased culture of transparency of information and may also act to reinforce the formality of arrangements and provide an accountability mechanism for executive action during the election period.

#### Finding 1

The Committee finds that the ACT Government’s decision not to provide the health system demand data it had received to other parties during the caretaker period meant this information could not be considered by the community prior to the election. This can be avoided by ensuring that factual information provided in the caretaker period is made publicly available.

#### Recommendation 6

The Committee recommends that factual information that is provided by the ACT Public Service to ministers during caretaker should be published at the same time, to ensure equal access to factual information during the caretaker period.

For simplicity, a single webpage or other publicly accessible point of information may best serve this purpose.

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<sup>100</sup> Ms Rachel Stephen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, p 23.

<sup>101</sup> Ms Rachel Stephen-Smith MLA, Minister for Health and Minister for the Public Service, *Committee Hansard*, 11 June 2025, p 15.

<sup>102</sup> Mr Shane Rattenbury MLA, Chair, Select Committee on Caretaker Conventions, *Committee Hansard*, 11 June 2025, p 40.

## Pre-election budget update

5.14. Under the *Financial Management Act 1996* (FM Act), the ACT Government is required to present a Pre-Election Budget Update (PEBU) at least 30 days prior to election day.<sup>103</sup> The PEBU enables an assessment of the ACT Government's financial performance against the latest budget papers and provides the electorate with an accurate picture of the Territory's financial position ahead of an election.<sup>104</sup>

5.15. Mr Mark Fletcher summarised this purpose in his submission:

In theory, a voter could read these documents and develop an understanding of how well the government had performed fiscally. With a sufficient mass of informed voters who cared about fiscal performance, the electorate would exercise democratic control over the government.<sup>105</sup>

5.16. However, the timing of the ACT election means that the PEBU contains partial data for the first quarter of the financial year. The former Under Treasurer issued the 2024 PEBU on 18 September 2024,<sup>106</sup> which contained data current as of 11 September 2024.<sup>107</sup>

5.17. The Chief Minister discussed this during the public hearings, noting the opportunity presented by pushing the PEBU back to align with broader fiscal reporting required under the FMA Act:

... If you did that, then the PEBU would contain the first quarter of the new financial year's financial information and that would be available to everyone on an equal basis. That obviously requires an amendment to the Electoral Act to change the date of the election. Do that and you have solved most of the issues that have been identified around everyone having access to information at the same time.<sup>108</sup>

### Committee comment

5.18. The Committee is of the view that changing the dates of the PEBU and the election could facilitate aligning the PEBU with quarterly September financial reporting, which would allow for more up-to-date information being available for the election period. A four-week shift may be sufficient, in order to generate the results from the first quarter of the financial year.

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<sup>103</sup> *Financial Management Act 1996*, s 20c(1).

<sup>104</sup> *Financial Management Act 1996*, s20D(1).

<sup>105</sup> Mr Mark Fletcher, *Submission 4*, p 7.

<sup>106</sup> Chief Minister, Treasury and Economic Development Directorate, 'Release of the 2024 Pre-election Budget Update for the Australian Capital Territory', *Media Release*, 18 September 2025.

<sup>107</sup> ACT Government, *Pre-Election Budget Update 2024: A statement by the Under Treasurer*, September 2024, p 5.

<sup>108</sup> Mr Andrew Barr MLA, Chief Minister, *Committee Hansard*, 11 June 2025, p 33.

## Finding 2

The Committee finds that, if it is the preference of the Assembly to have a full quarter of financial data to inform the Pre-Election Budget Update (PEBU), the ACT Government would need to consider introducing legislation to permanently change the dates of both the PEBU and the election to occur later than they are currently scheduled.

## Post-election negotiations

- 5.19. The supply and confidence agreement between ACT Labor and the ACT Greens was finalised on 5 November 2024,<sup>109</sup> following ‘extensive’ post-election negotiations.<sup>110</sup>
- 5.20. The Committee heard that the ACTPS and Head of Service involvement during post-election negotiations was limited due to the political nature of the discussions. The Chief Minister advised that some factual information was sought during this period, however where questions were political in nature, ‘they were resolved between officers at a political level.’<sup>111</sup>
- 5.21. As discussed at paragraph 3.16, the Chief Minister’s office had received the Incoming Government Brief on 21 October 2024. When asked whether the public service provided analysis of other parties’ commitments, the Chief Minister advised:

All that was available to us were the Treasury costings and your [the ACT Green’s] explanation of your policy, plus our interpretation of that, when we sought it to understand those matters.<sup>112</sup>

- 5.22. Members of the Assembly raised questions as to whether the information in the Incoming Government Brief,<sup>113</sup> or the preliminary hospital activity data provided to the Minister for Health, were used during post-election negotiations.<sup>114</sup>
- 5.23. The symmetry of information between parties during negotiations to form government is not specifically addressed in Australian caretaker guidance documents.<sup>115</sup> However, high-level information about access to the public service and factual information during post-election negotiations is included in guidance material produced by other Westminster governments.<sup>116</sup>

<sup>109</sup> Supply and Confidence Agreement, 5 November 2024, [https://cdn.greens.org.au/cdn/ff/4uMcMyAuy4EVMUsrnzb0DriKhPgdR4SHSjk\\_pv\\_041M/1730868433/public/2024-11/Supply%20and%20Confidence%20Agreement\\_0.pdf](https://cdn.greens.org.au/cdn/ff/4uMcMyAuy4EVMUsrnzb0DriKhPgdR4SHSjk_pv_041M/1730868433/public/2024-11/Supply%20and%20Confidence%20Agreement_0.pdf) (accessed 23 January 2026).

<sup>110</sup> Mr Andrew Barr MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, p 52.

<sup>111</sup> Mr Andrew Barr MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, p 51.

<sup>112</sup> Mr Andrew Bar MLA, Chief Minister, *Proof Committee Hansard*, 2 October 2025, p 52.

<sup>113</sup> Mr Shane Rattenbury MLA, Chair, Select Committee on Caretaker Conventions, *Proof Committee Hansard*, 2 October 2025, pp 50–52; Mr Andrew Braddock MLA, *Proof Committee Hansard*, 2 October 2025, pp 58–60.

<sup>114</sup> Mr Andrew Braddock MLA, *Debates*, 5 March 2025, p 393.

<sup>115</sup> See *Appendix E*.

<sup>116</sup> See, for example, United Kingdom Government, Cabinet Office, *The Cabinet Manual*, 1<sup>st</sup> ed, October 2011, pp 14–15. The Prime Minister authorised the Civil Service to provide support during negotiations to form government following the 2010 General Election. United Kingdom Government, Cabinet Secretary, *Civil Service Support to Coalition*

## Committee comment

- 5.24. The Committee considers that, in addition to enhancing the transparency of information to the public, the recommendations in this chapter also provide for greater equality of information during post-election negotiations.
- 5.25. The Committee notes that this issue is not addressed in Australian caretaker guidance generally and considers further discussion is necessary prior to finalising the ACT Caretaker Guidance for the 2028 election.
- 5.26. As was seen following the 2024 election, the absence of this information creates uncertainty for parties engaged in post-election negotiations and can result in an imbalance of information.<sup>117</sup>

### Finding 3

The Committee finds that existing caretaker conventions as observed in the Australian Westminster system result in an imbalance of information between parties during post-election negotiations to form government.

- 5.27. Furthermore, the Committee considers that tabling the Incoming Government Brief and Alternate Government Brief on the first sitting day of the new Assembly would be an equitable way to share any new information from the caretaker period with non-government members of the Assembly, and the wider public.

### Recommendation 7

The Committee recommends that the Chief Minister should be required to table both the Incoming Government Brief and the Alternate Government Brief on the first day of sitting, with appropriate redactions to preserve the privacy of any officials named in the Brief.

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*Negotiations*, 6 May 2010, <https://assets.publishing.service.gov.uk/media/5a78eb9d40f0b62b22cbdd9f/coalition-negotiations.pdf> (accessed 9 February 2026).

<sup>117</sup> See Mr Shane Rattenbury MLA, Chair, Select Committee on Caretaker Conventions, *Proof Committee Hansard*, 2 October 2025, p 50–52; Mr Andrew Braddock MLA, *Proof Committee Hansard*, 2 October 2025, pp 58–60; Mr Andrew Braddock MLA, *Debates*, 5 March 2025, p 393.

## 6. Conclusion

- 6.1. The Committee thanks everyone who participated in, or otherwise assisted, this inquiry. This includes the ACT Government ministers, directorate officials, and witnesses who appeared at public hearings. The Committee extends particular thanks to the Hansard and Broadcasting staff of the Office of the Legislative Assembly.
- 6.2. The Committee has made three findings and seven recommendations in the report.

Mr Shane Rattenbury MLA  
Chair, Select Committee on Caretaker Conventions

20 February 2026

## Appendix A: Submissions

No.	Submission by	Received	Published
1	Australian Multicultural Action Network Inc.	17/04/2025	30/04/2025
2	Office of the Legislative Assembly ACT	01/05/2025	22/05/2025
3	ACT Government	08/05/2025	22/05/2025
4	Mark Fletcher	09/05/2025	22/05/2025

# Appendix B: Witnesses

Wednesday, 11 June 2025

Mr Mark Fletcher, Individual

## ACT Government

- **Ms Rachel Stephen-Smith MLA**, Minister for Health, and Minister for the Public Service
- **Ms Robyn Hudson**, Acting Director-General, ACT Health Directorate
- **Ms Kathy Leigh**, Head of Service & Director-General, CMTEDD
- **Mr Robert Wright**, Deputy Director-General, Office of Industrial Relations and Workforce Strategy, CMTEDD
- **Mr Dave Pepper**, Chief Executive Officer, Canberra Health Services

## ACT Government

- **Mr Andrew Barr MLA**, Chief Minister
- **Ms Kathy Leigh**, Head of Service and Director-General, CMTEDD
- **Mr Robert Wright**, Deputy Director-General, Office of Industrial Relations and Workforce Strategy, CMTEDD
- **Ms Emma Matthews**, Executive Branch Manager, Workforce Governance and Recruitment, Office of Industrial Relations and Workforce Strategy, CMTEDD
- **Mr Peter Garrisson**, Solicitor-General for the ACT, Justice and Community Safety Directorate

Thursday, 2 October 2025

## ACT Government

- **Mr Andrew Barr MLA**, Chief Minister
- **Mr Peter Garrisson**, Solicitor-General for the ACT, Justice and Community Safety Directorate
- **Mr Ross Campbell**, Acting Head of Service, CMTEDD
- **Mr Michael Young**, Acting Deputy Director-General, Office of Industrial Relations and Workforce Strategy, CMTEDD

## Appendix C: Gender distribution of witnesses

Beginning in April 2023, in response to an audit by the Commonwealth Parliamentary Association, Committees are collecting information on the gender of witnesses. The aim is to determine whether committee inquiries are meeting the needs, and allowing the participation of, a range of genders in the community. Participation is voluntary and there are no set responses.

Gender indication	Total
Female	4
Male	7
Non-binary	0
Gender neutral	0
No data	0

## Appendix D: Questions taken on notice

No.	Date	Asked of	Subject	Response received
1	11/06/2025	Minister for Health	ACT Health contact with Minister for Health	23/06/2025
2	11/06/2025	Chief Minister	Expenditure exceeding forecasting	25/06/2025
3	11/06/2025	Chief Minister	Treasury access to spending information of agencies	25/06/2025
4	11/06/2025	Chief Minister	Phone call from CHS to CMO	04/07/2025
5	11/06/2025	Treasurer	Health budget information to Treasury	01/08/2025
6	11/06/2025	Chief Minister	Post-election information sharing	25/06/2025
7	02/10/2025	Chief Minister	Incoming Government Brief (ACT public service)	15/10/2025
8	02/10/2025	Chief Minister	Incoming Government Brief Issues for Consideration (ACT public service)	15/10/2025
9	02/10/2025	Chief Minister	Incoming Government Brief Issues for Consideration (ACT public service)	15/10/2025
10	02/10/2025	Chief Minister	Incoming Government Brief received date (ACT public service)	21/10/2025
11	02/10/2025	Chief Minister	Incoming Government Brief letter (ACT public service)	15/10/2025
12	02/10/2025	Chief Minister	Incoming Government Brief letter (ACT public service)	15/10/2025
13	02/10/2025	Chief Minister	Incoming Government Brief email (ACT public service)	15/10/2025
14	02/10/2025	Chief Minister	Incoming Government Brief email (ACT public service)	15/10/2025
15	02/10/2025	Chief Minister	Tracking of party Election commitments (ACT public service)	20/10/2025
16	02/10/2025	Chief Minister	APS Code of Conduct (ACT public service)	15/10/2025
17	02/10/2025	Chief Minister	Caretaker Conventions and Incoming Government Brief (ACT public service)	17/10/2025
18	02/10/2025	Chief Minister	CRA contract of sale of Block 1 Section 121 (City Renewal Authority)	15/10/2025
19	02/10/2025	Chief Minister	CRA contract of sale of Block 1 Section 121 (City Renewal Authority)	15/10/2025
20	02/10/2025	Chief Minister	CRA contract of sale of Block 1 Section 121 consultation with Opposition (City Renewal Authority)	15/10/2025
21	02/10/2025	Chief Minister	CRA contract of sale of Block 1 Section 121 brief with Opposition (City Renewal Authority)	15/10/2025

22	02/10/2025	Chief Minister	CRA requested briefing packs with Opposition (City Renewal Authority)	15/10/2025
23	02/10/2025	Chief Minister	CRA contract of sale of Block 1 Section 121 brief with Opposition (City Renewal Authority)	15/10/2025
24	02/10/2025	Chief Minister	Letter from Head of Service for Incoming Government (ACT public service)	15/10/2025
25	02/10/2025	Chief Minister	Staff access to incoming Government briefs (ACT public service)	15/10/2025
26	02/10/2025	Chief Minister	Dates of incoming government briefs from previous elections (ACT public service)	23/10/2025

## Appendix E: Jurisdictional comparison

### Overview

The below table provides a snapshot of topics covered in Australian jurisdictions against the sections included in the ACT Caretaker Guidance. Most jurisdictions contain similar guidance which is largely aligned to the information issued by the Commonwealth.

Table 1: Comparison of caretaker convention guidance documents issued by Australian jurisdictions.

Information in the ACT Guidance on caretaker conventions 2024	Commonwealth (Cth) <sup>118</sup>	Queensland (Qld.) <sup>119</sup>	New South Wales (NSW) <sup>120</sup>	Victoria (Vic.) <sup>121</sup>	Tasmania (Tas.) <sup>122</sup>	South Australia (SA) <sup>123</sup>	Western Australia (WA) <sup>124</sup>	Northern Territory (NT) <sup>125</sup>
Standard conventions – No significant new decisions, appointments, major contracts or agreements	✓	✓	✓	✓	✓	✓	✓	X
Cabinet meetings and/or documents	✓	✓	✓	✓	✓	✓	✓	X
Application to other entities	✓	✓	✓	✓	✓	✓	✓	X
Intergovernmental meetings and/or official visits	✓	✓	✓	✓	✓	✓	✓	X
Requests by/contact with Ministers	✓	✓	✓	✓	✓	✓	✓	✓
Legislation	✓	✓	✓	✓	✓	✓	✓	X
Ministerial correspondence	✓	✓	✓	✓	✓	✓	✓	X
Pre-election budget update	X	X	X	X	X	X	✓	X
Policy costings	✓	✓	✓	✓	✓	X	✓	X
Incoming government briefs	X	✓	✓	X	✓	X	✓	X
Directorate Liaison Officers	✓	✓	X	✓	✓	✓	X	X
Consultation with opposition and recognised parties in Assembly	✓	✓	✓	✓	✓	✓	✓	✓
Use of government electronic communications, publications and advertising, assets, facilities, or offices	✓	✓	✓	✓	✓	✓	✓	X
Approval of grants	X	✓	X	✓	✓	X	✓	X
Responses to committee reports	✓	X	X	✓	✓	X	X	X
Tabling of annual reports and/or state of the service report	✓	X	X	X	✓	X	X	X
Public sector ethical requirements and impartiality, and political participation	✓	✓	✓	✓	✓	✓	✓	✓

<sup>118</sup> Australian Government, Department of Prime Minister and Cabinet, *Guidance on Caretaker Conventions*, December 2024.

<sup>119</sup> Queensland Government, Department of the Premier and Cabinet, *2024 State General Election: Guidelines on the Caretaker Conventions*, undated.

<sup>120</sup> New South Wales Government, Department of Premier and Cabinet, *Guidance Note: 'Caretaker' Conventions and Other Pre-Election – 2023 General State Election*, 11 November 2022.

<sup>121</sup> Victoria State Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions*, April 2022.

<sup>122</sup> Tasmanian Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions and the Operations of Government During the Caretaker Period*, undated.

<sup>123</sup> Government of South Australia, Department of the Premier and Cabinet, *Guide to Caretaker Conventions and Pre-election Practices 2021*, undated.

<sup>124</sup> Government of Western Australia, Department of the Premier and Cabinet, *2025 Caretaker Conventions: Guidelines applying in Western Australia during the State General Election period*, February 2025.

<sup>125</sup> Northern Territory Government, Office of the Commissioner for Public Engagement, *Public sector employees and elections*, 27 February 2024. Note, this guidance document is focused on public service employee conduct during election periods and does not include comparable information with other guides.

## Caretaker timeframes

The length of the caretaker period differs between Australian jurisdictions and is influenced by the election outcome and electoral system. The length of the caretaker periods listed below is calculated manually and is an approximation only. The dates include the day of commencement and the day on which the election result was clear (either through opposition concession or media reporting of majority incumbent government) or the swearing-in of the incoming government.

Table 2: Caretaker periods across Australian jurisdictions

Jurisdiction	Information	Approximate caretaker period timeframes
Commonwealth	'The caretaker period begins at the time the House is dissolved. Once dissolved, the House no longer exists and elections for the full membership of a new House are held at a general election. The caretaker period continues until the election result is clear or, if there is a change of government, until the new government is appointed by the Governor-General.' <sup>126</sup>	The caretaker period for the 2025 federal election commenced on 28 March 2025, ending on 3 May 2025 when the incumbent government was returned on election night (total of 37 days). <sup>127</sup>
Queensland (Qld.)	'In accordance with <i>the Constitution of Queensland 2001</i> (the Constitution) elections are held in Queensland every four years on the last Saturday in October. Under Part 2A of the Constitution, the Governor is to dissolve the Legislative Assembly and issue the writ 26 days before the polling day. The caretaker period begins at the time the Legislative Assembly is dissolved...  The time at which the caretaker period ends will depend on the outcome of the election. If the government is returned, the caretaker period ends when the result becomes clear. That is: <ul style="list-style-type: none"> <li>when the Leader of the Opposition concedes defeat, or</li> <li>when it is clear the government has won sufficient seats in the Legislative Assembly to form government.</li> </ul> If the government changes following an election, the caretaker period ends when the incoming government is sworn in.' <sup>128</sup>	The caretaker period of the Qld. State General Election began on 1 October 2024. The caretaker period ended on 28 October 2024 with the swearing in of the new Premier following a change of government (total of 28 days). <sup>129</sup>
New South Wales (NSW)	NSW caretaker guidance defines two relevant periods: <ol style="list-style-type: none"> <li>Pre-election period: 'the period from after the Legislative Assembly ceases to sit until the commencement of the caretaker period on 3 March 2023'</li> <li>Caretaker period: the period 'from 3 March 2023 until either the election result is clear (if the current Government is returned) or the new Premier is commissioned to form Government (if there is a change of Government)'.<sup>130</sup></li> </ol>	The caretaker period for the 2023 NSW state general election ran from 3 March 2023 to 28 March 2023 when the new Premier was sworn in following a change in government (total of 26 days). <sup>131</sup>
Victoria	'The caretaker period is the period between the expiration of the Legislative Assembly (or, if it is dissolved earlier, from that date) and either the time when it becomes clear the government has been returned, or the time when a new government is commissioned.' <sup>132</sup>	The caretaker period for the Victorian State General Election began at 6.00pm on 1 November 2022. The caretaker period ended on 26 November 2022 with the return of the incumbent government on election night (total of 25 days). <sup>133</sup>
South Australia (SA)	'The caretaker period begins when the House of Assembly is dissolved and the writs are issued; it concludes when the outcome of the election is clear or, if there is a change of government, the new government is appointed.' <sup>134</sup>	The caretaker period for the SA General Election commenced on 19 February 2022 with the issuing of the writs for election. <sup>135</sup> The caretaker period ended on 24 March 2022 with the swearing-in of the new ministers following a change of government (total 34 days). <sup>136</sup>

<sup>126</sup> Australian Government, Department of Prime Minister and Cabinet, *Guidance on Caretaker Conventions*, December 2024, p 2.

<sup>127</sup> Tom Crowley, 'Labor clinches 'win for the ages' as Dutton loses his seat', *ABC News*, 3 May 2025, <https://www.abc.net.au/news/2025-05-03/federal-election-night-2025-who-is-winning/105239714> (accessed 2 February 2026).

<sup>128</sup> Queensland Government, Department of the Premier and Cabinet, *2024 State General Election: Guidelines on the Caretaker Conventions*, undated, p 1.

<sup>129</sup> Governor of Queensland, *Governor presides over swearing-on of new Premier*, 28 October 2024, <https://www.govhouse.qld.gov.au/government-house/office-of-the-governor/news-and-publications/latest-news/governor-presides-over-swearing-in-of-new-premier> (accessed 2 February 2026).

<sup>130</sup> New South Wales Government, Department of Premier and Cabinet, *Guidance Note: 'Caretaker' Conventions and Other Pre-Election – 2023 General State Election*, 11 November 2022, p ii.

<sup>131</sup> New South Wales Government, 'Premier of NSW', <https://www.nsw.gov.au/nsw-government/premier-of-nsw> (accessed 29 January 2026).

<sup>132</sup> Victoria State Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions*, April 2022, p 5.

<sup>133</sup> Joseph Dunstan, Sian Johnson and staff, 'Daniel Andres wins third term as Victorian premier as Liberal Party handed 'disaster'', *ABC News*, 26 November 2022, <https://www.abc.net.au/news/2022-11-27/victoria-election-daniel-andrews-labor-win-liberal-party-loss/101703068> (accessed 2 February 2026).

<sup>134</sup> Government of South Australia, Department of the Premier and Cabinet, *Guide to Caretaker Conventions and Pre-election Practices 2021*, undated, p 2.

<sup>135</sup> Government House South Australia, 'Sunday, 19 February 2022', *Latest News*, <https://www.governor.sa.gov.au/vice-regal/daily-program/saturday-19-february-2022> (accessed 2 February 2026).

<sup>136</sup> Government House South Australia, 'Thursday, 24 March 2022', *Latest News*, <https://www.governor.sa.gov.au/vice-regal/daily-program/thursday-24-march-2022> (accessed 2 February 2026).

Jurisdiction	Information	Approximate caretaker period timeframes
Tasmania	'In general terms, the caretaker period begins at the time the House of Assembly is dissolved or expires and continues until the result of the election is clear, and if there is to be a change of government, until the new government is appointed.' <sup>137</sup>	The caretaker period for the 2024 Tasmanian general election commenced on 14 February 2024 with the dissolution of the House of Assembly. The caretaker period ended on 11 April 2024 with the return of a minority incumbent government (total of 58 days). <sup>138</sup>
Western Australia (WA)	'The caretaker period commences from the date of the issue of the writs for elections for the Legislative Assembly and continues until the election result is clear, or, in the event of a change of government, until the new government is sworn in.' <sup>139</sup>	The caretaker period for the WA state general election commenced on 6 February 2025 with the issuing of the writs for election. The caretaker period ended on 8 March 2025 with the return of the incumbent government on election night (total of 31 days). <sup>140</sup>
Northern Territory (NT)	The caretaker period is defined as 'the period which commences immediately after an election is called and extends up to the point at which a new government is sworn in.' <sup>141</sup>	The caretaker period for the 2024 NT general election commenced on 1 August 2024. The election result was declared on 9 September 2024 with an interim ministry sworn in on 28 August 2025 following a change of government (total of 28 days). <sup>142</sup>
Australian Capital Territory (ACT)	<p>'The ACT's Caretaker Conventions apply from the beginning of the "election period" as defined by the Dictionary of the [Electoral Act 1992]. The election period, in relation to an election, means the period:</p> <p>(a) beginning on the first day of the pre-election period; and</p> <p>(b) ending when the result of the election is declared under section 189.</p> <p>The "pre-election period" is defined as the period of 37 days ending on the end of polling day for an election.</p> <p>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.</p> <p>The <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth) 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.'<sup>143</sup></p>	The caretaker period for the 2024 ACT general election commenced on 13 September 2024, ending on 6 November 2024 with the election of the Chief Minister in the Legislative Assembly (total of 55 days). <sup>144</sup>

<sup>137</sup> Tasmanian Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions and the Operations of Government During the Caretaker Period*, undated, p 3.

<sup>138</sup> Parliament of Tasmania, Parliamentary Standing Committee on Public Accounts, *TT-Line Spirit of Tasmania Vessel Replacement Project*, Interim Report, 2025 (No. 28), pp 9 and 38.

<sup>139</sup> Government of Western Australia, Department of the Premier and Cabinet, *2025 Caretaker Conventions: Guidelines applying in Western Australia during the State General Election period*, February 2025, p 2.

<sup>140</sup> See, Western Australia Electoral Commission, *2025 WA State Election – Post Election Report*, undated, p 7, Casey Briggs et al, 'WA election live: Labor and Roger Cook re-elected as Antony Green calls election', *ABC News*, <https://www.abc.net.au/news/2025-03-08/wa-election-2025-live-blog-antony-green-casey-briggs/105027806> (accessed 29 January 2026).

<sup>141</sup> Northern Territory Government, Office of the Commissioner for Public Engagement, *Public sector employees and elections*, 27 February 2024, p 10.

<sup>142</sup> See, Northern Territory Electoral Commission, *2024 Territory Election Timetable*, <https://ntec.nt.gov.au/elections/past-elections/legislative-assembly/2024-territory-election/timetable> (accessed 29 January 2026), NT Government, 'Interim Finocchiaro Ministry sworn in', *Media Release*, 28 August 2024.

<sup>143</sup> ACT Government, Chief Minister, Treasury and Economic Development Directorate, *2024 General Election: Guidance on Caretaker Conventions*, September 2024, pp 2–3.

<sup>144</sup> ACT Legislative Assembly, *Minutes of Proceedings No 1*, 6 November 2024, p 3.

## Access to information by ministers, parliamentarians and candidates

Most Australian jurisdictions provide for access to the public service by the Opposition during the caretaker or pre-election period, with access provided for an average of three months. The process, scope and confidentiality requirements for Opposition consultation with the public service are consistent with the Commonwealth Guidelines. Table 3 provides a summary of the relevant guidance material on the topic across Australian jurisdictions.

The Committee also considered the process undertaken in the United Kingdom. The Cabinet Manual sets out the following:

‘At an appropriate time towards the end of any Parliament, as the next general election approaches, the Prime Minister writes to the leaders of the main opposition parties to authorise pre-election contacts with the Civil Service. The meetings take place on a confidential basis, without ministers being present or receiving a report of discussions. The Cabinet Secretary has overall responsibility for co-ordinating this process once a request has been made and authorised by the Prime Minister. These discussions are designed to allow the Opposition’s shadow ministers to ask questions about departmental organisation and to inform civil servants of any organisational changes likely to take place in the event of a change of government. Senior civil servants may ask questions about the implications of opposition parties’ policy statements, although they would not normally comment on or give advice about policies.’<sup>145</sup>

The Opposition can hold confidential talks with the UK civil service through a program called Access Talks. The Access Talks model ‘have been a feature of the civil service for decades, usually beginning in the 12-16 months prior to the end of parliament, that is, before the latest dates a general election, and so a potential change of government, will take place. A helpful guide has been developed and covers advice for opposition and public servants in building relationships and understanding departments and policy.’<sup>146</sup>

Table 3: Summary of guidance material across Australian jurisdictions – public service engagement with non-government members during caretaker

Jurisdiction	Relevant guidance material
Commonwealth	<p>The Guidelines for consultation by the Opposition commence on a different date to the caretaker conventions and apply as soon as an election for the House is announced or three months before the expiry of the House, whichever occurs first. ‘The Guidelines are as follows:</p> <ul style="list-style-type: none"> <li>(i) The pre-election period is to date from three months prior to the expiry of the House or the date of announcement of the House election, whichever date comes first. It does not apply in respect of Senate elections only.</li> <li>(ii) Under the special arrangement, shadow ministers may be given approval to have discussions with appropriate officials of government departments. Party leaders may have other Members of Parliament or their staff members present. A departmental secretary may have other officials present.</li> <li>(iii) The procedure will be initiated by the relevant Opposition spokesperson making a request of the minister concerned who is to notify the Prime Minister of the request and whether it has been agreed.</li> <li>(iv) The discussions will be at the initiative of the non-government parties, not officials. Officials will inform their ministers when the discussions are taking place.</li> <li>(v) Officials will not be authorised to discuss government policies or to give opinions on matters of a party political nature. The subject matter of the discussions would relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by non-government parties. If the Opposition representatives raised matters which, in the judgment of the officials, sought information on government policies or sought expressions of opinion on alternative policies, the officials would suggest that the matter be raised with the minister.</li> <li>(vi) The detailed substance of the discussions will be confidential, but ministers will be entitled to seek general information from officials on whether the discussions kept within the agreed purposes.’<sup>147</sup></li> </ul>
Queensland	<p>The guidelines for consultation between the Opposition and public officials apply throughout the caretaker period and are as follows:</p> <p>‘Consultation should be initiated by the Opposition Spokesperson making the request for access to the relevant minister. The minister should notify the Premier as to the nature of the request and as to whether it has been granted.</p> <p>The subject matter of the discussion between public officials and the Opposition Spokesperson must relate to the machinery of government and administration and the resources generally available in the portfolio area, as they would relate to the implementation of Opposition policy. Public officials are not authorised to discuss the merits of policies of either the government or the Opposition.</p> <p>Public officials are to inform ministers when the discussions are taking place and ministers are entitled only to seek assurances that the discussions are kept within the agreed purposes. The content of the discussion is confidential to the participants.</p> <p>Departments will be represented in such discussions by the Director-General and an appropriate officer with relevant expertise from DPC [Department of the Premier and Cabinet].</p> <p>If the request is to meet with an agency other than a department (including a statutory authority, statutory body or a government company), the request should be made in the same manner (to the relevant minister), with the chief executive, or equivalent, of the agency to attend, as well as the Director-General of the administering department and an appropriate officer with relevant expertise from DPC.</p> <p>For the purpose of facilitating consultation, the Director-General (or chief executive or their equivalent) should seek details of the likely topics for discussion so that relevant information can be made available during the deliberations. Information should only be presented in the form in which it exists at the time of the consultation (e.g. annual reports, program statements, etc.). Alternatively, information can be communicated orally.</p> <p>The creation of documents for, or records of, consultations should be avoided. The confidentiality of matters raised during discussions should remain insulated from partisan political debate during an election period. Specific material generated for, or notes taken during, the meeting would form an official record of the proceedings and seriously undermine the requisite confidentiality of the consultation, particularly if the records subsequently became public.</p>

<sup>145</sup> UK Government, *The Cabinet Manual*, 1st Edition, October 2011 p 16.

<sup>146</sup> Catherine Haddon, Institute for Government, *General election: access talks*, Insight Paper, 18 January 2024, <https://www.instituteforgovernment.org.uk/publication/general-election-access-talks> (accessed 29 May 2025).

<sup>147</sup> Prime Minister and Cabinet (PM&C), *Guidance to Caretaker Conventions*, December 2024, (Section 9) p 14.

Jurisdiction	Relevant guidance material
	Queries about approval of particular requests for consultation should be handled between a minister and the Premier. Requests which involve an unreasonable amount of work by the department/agency may properly be denied. <sup>148</sup>
New South Wales	<p>Requests to speak with public service officials should be made to the relevant Minister, or their office, or through the relevant head of agency. During the pre-election period the following practices also apply:</p> <p>‘Any consultation that non-Government members wish to undertake with agency officials is to be initiated through the relevant Minister’s office. The relevant Minister is to notify the Premier of any request and whether it has been granted. Agency officials should not initiate any consultation.</p> <p>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.</p> <p>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.’<sup>149</sup></p> <p>‘Agencies and Ministers’ offices can continue to receive and deal with applications for access to Government information from members of the public, including journalists and Members of the Parliament (under the <i>Government Information (Public Access) Act 2009</i>) during the caretaker period.’<sup>150</sup></p>
Victoria	<p>Consultation between public sector bodies and non-government members may occur from three months prior to the expiry of the Legislative Assembly or, if the Assembly is being dissolved, the date of the announcement of the election, whichever date comes first. The following processes apply:</p> <p>‘Leaders of non-government political parties may make a request for consultation with public sector bodies through the Premier. Similarly, Shadow Ministers may also request access to public sector bodies through the relevant Minister provided the Premier is informed of the request and whether it has been agreed to. Approval may be given by the Premier or relevant Minister to have discussions with the appropriate public sector body or public sector bodies. Public sector bodies should not involve themselves in these discussions unless approval has been given by the Premier or relevant Minister.</p> <p>Members of non-government political parties may have other Members of Parliament or staff present at consultations. It is not appropriate for Ministers’ private office staff to be present at such consultations. At all consultations, public sector bodies are to be represented by the relevant public sector body Head and a relevant representative of DPC nominated by the Secretary, (reflecting DPC responsibility for supporting VPS compliance with the caretaker conventions). For consultations with public sector bodies other than Departments, the relevant Department Secretary in respect of the public sector body is also required to be present. Public sector body Heads may invite one or more other public sector employees to be present at consultations. Public sector employees present at consultations should be of at least Executive Director or equivalent seniority, unless approved by the relevant public sector body Head in exceptional circumstances.</p> <p>The request for consultation will be at the initiative of the non-government political parties, not public sector bodies. Public sector bodies are to inform their Ministers when the discussions are taking place, following approval being granted. Public sector body Heads are to ensure that any public sector employees authorised to attend briefings have a proper understanding of the matters likely to be raised at such briefings.</p> <p>Public sector employees are not authorised to discuss government policies or to give opinions on matters of a party-political nature. The subject matter of the discussions should relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-government political parties. If the non-government political representatives raise matters which, in the judgement of the public sector employees, seek information on government policies or expressions of opinion on alternative policies, the public sector employees are to suggest that these matters be raised with the Minister and politely decline to engage in further discussion of the matters.</p> <p>The detailed substance of the discussions will be confidential, but Ministers will be entitled to seek confirmation from public sector employees that discussions kept within agreed purposes and the guidelines.’<sup>151</sup></p>
Tasmania	<p>Heads of agency are permitted to consult with non-government parties during the caretaker period ‘under strictly controlled conditions.’ These include:</p> <p>‘Leaders of non-government parties may make a request for consultation with agency staff through the Premier. Approval may be given by the Premier for non-government party representatives to have discussions with appropriate agency staff. Agency staff should not involve themselves in these discussions unless approval has been given by the Premier.</p> <p>A non-government representative may have other Members of Parliament or staff present at such meetings. A Head of Agency or his/her representative may have other Tasmanian State Service employees and officers present. It is not appropriate for Ministerial Office staff to be present.</p> <p>The request for consultation is to be at the initiative of the non-government parties, not Tasmanian State Service employees and officers. The Head of Agency is to ensure that his or her Ministers are informed when the discussions are taking place. Heads of Agencies are to ensure that Tasmanian State Service employees and officers authorised to conduct or attend briefings have a proper understanding of the matters likely to be raised at such briefings.</p> <p>Tasmanian State Service employees and officers are not authorised to discuss the Government’s policies or to give opinions on matters of a party political nature. The subject matter of the discussions should relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-government parties. If the non-government representatives raise matters which, in the judgment of the agency staff, seek information on the Government’s policies or expressions of opinion on alternative policies, the Tasmanian State Service employees and officers are to suggest that these matters be raised with the relevant Minister or the Premier.</p> <p>The detailed substance of the discussions will be confidential, but Ministers will be entitled to seek general information from Tasmanian State Service employees and officers on whether the discussions kept within agreed purposes and these Guidelines.’<sup>152</sup></p>

<sup>148</sup> Queensland Government, Department of Premier and Cabinet, *2024 State General Election: Guidelines on the Caretaker Conventions*, undated, p 13.

<sup>149</sup> New South Wales Government, Department of Premier and Cabinet, *Caretaker Guidance Note: ‘Caretaker’ Conventions and Other Pre-Election Practices – 2023 General State Election*, 11 November 2022, pp 7–8.

<sup>150</sup> New South Wales Government, Department of Premier and Cabinet, *Caretaker Guidance Note: ‘Caretaker’ Conventions and Other Pre-Election Practices – 2023 General State Election*, 11 November 2022, p 11.

<sup>151</sup> Victorian Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions*, April 2022, pp 16–17.

<sup>152</sup> Tasmanian Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions and the operations of government during the caretaker period*, undated, p 28.

Jurisdiction	Relevant guidance material
South Australia	<p>The following process applies during the caretaker period:</p> <p>‘During the caretaker period, as at other times, public servants should not discuss the affairs of the government with a shadow minister or opposition member unless permitted to do so by the relevant minister after consultation with the Premier. Public servants must advise their minister when such a discussion is to take place, and party leaders may have other MPs or their staff present at the discussions.</p> <p>Discussions between public servants and the opposition would normally be limited to the machinery of government and administration. They may include the administrative and technical practicalities involved in implementing policies proposed by the opposition.</p> <p>Public officials are not authorised to discuss government policies or to give opinions on matters of a party political nature. Should the opposition representatives raise matters which, in the judgement of an official, seeks information on government policies or expressions of opinion on alternative policies, the official should suggest that the representative raise the matter with the minister.’<sup>153</sup></p>
Western Australia	<p>Public service engagement with Members of Parliament and political candidates is permitted during the caretaker period in line with the following process:</p> <ul style="list-style-type: none"> <li>• ‘The procedure must be initiated by an approach by the relevant Member of Parliament or political candidate through the appropriate Minister. The Minister shall refer the request to the relevant Chief Executive Officer. Public sector officers should not instigate discussions.</li> <li>• The Chief Executive Officer should notify the Minister, in writing, of the details of when the discussions will take place. The Minister should then advise the Premier of the discussions.</li> <li>• Public sector offices are not authorised to discuss government policies or to give opinions on matters of a party-political nature. The subject matter of the discussions must be restricted to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in the implementation of policies proposed by the non-government parties.</li> <li>• Public sector agencies will be represented in such discussions by the Chief Executive Officer or his/her nominated representative and appropriate officers with relevant expertise.</li> <li>• The detailed substance of the discussions will be confidential, but Ministers will be entitled to seek general information on whether the discussions kept within the agreed purposes.</li> <li>• Any requests for consultation that involve an unreasonable amount of work by a public sector agency may be properly denied.</li> </ul> <p>As part of the process for preparing the way for any incoming government, public sector agencies may prepare general briefing papers on the implications of major stated policies to present to incoming Ministers subsequent to the election.’<sup>154</sup></p>
Northern Territory (NT)	<p>The NT Guidance does not include specific reference to non-government member engagement with the public service during the caretaker period. The document is focused on public service activities during the election period and reminds staff of their general responsibilities, including the general principles and obligations under the <i>Public Sector and Employment Management Act 1993</i> (PSEMA). A reminder of conflict of interest provisions in the lead up to an election is also included. The guidelines cover contact with other politicians and their staff, together with persons standing for political office. The guidelines specify that in these instances, contact should be made with the relevant Minister’s office and in the absence of the Minister, should be referred to the CEO.<sup>155</sup></p> <p>Some guidance is also provided in section 3.8 ‘Individual Comment’ which explains that comments made by a public sector employee must not: reveal advice given to the Minister, used or revealed any information gained in the course of official duties where this was not already known by, or readily available to, the general public.<sup>156</sup></p>
Australian Capital Territory	<p>Ministers may seek factual information and information relating to day-to-day business from senior executive officials during the caretaker period, however the public service should generally not be asked to provide policy advice during the caretaker period. The guidance outlines processes to be undertaken where urgent circumstances arise, including also briefing the Opposition and crossbench.</p> <p>The following process applies during the pre-election period:</p> <p>‘It is accepted custom and practice in the Territory that MLAs [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 and not directly approach public officials or directorate/agencies. In the pre-election period, the following practices apply:</p> <ul style="list-style-type: none"> <li>- 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.</li> <li>- The subject matter of discussions should generally focus on 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, including merits of any party’s policy.</li> </ul> <p>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.’<sup>157</sup></p>

<sup>153</sup> Government of South Australia, Department of Premier and Cabinet, *Guide to Caretaker Conventions and Pre-election Practices*, 2021, undated pp 11–12.

<sup>154</sup> Government of Western Australia, Department of Premier and Cabinet, *2025 Caretaker Conventions*, February 2025, pp 11–12.

<sup>155</sup> Northern Territory Government, Office of the Commissioner for Public Engagement, *Public sector employees and elections*, February 2024, p 5.

<sup>156</sup> Northern Territory Government, Office of the Commissioner for Public Engagement, *Public sector employees and elections*, February 2024, pp 8–9.

<sup>157</sup> ACT Government, Chief Minister, Treasury and Economic Development Directorate, *2024 General Election: Guidance on Caretaker Conventions*, September 2024, pp 5–8.

## Pre-election budget updates and election costings

Information included in caretaker guidance about pre-election budget updates and election costings processes varies between jurisdictions. The following table provides a summary of the relevant guidance sources across Australian jurisdictions.

Table 4: Pre-election budget update and election costings information across Australian jurisdictions

Jurisdiction	Information relating to the pre-election budget update	Information relating to election costings
Commonwealth (Cth.)	The Commonwealth Caretaker Guidance does not refer to the Pre-election Economic and Fiscal Outlook report (PEFO) which is publicly released jointly Secretaries of the Department of the Treasury and Department of Finance within 10 days of the issue of the writs for a federal election. The purpose of the PEFO is to provide updated information on the economic and fiscal outlook. <sup>158</sup>	<p>The <i>Charter of Budget Honesty Act 1998</i> (Cth.) provides for the Secretaries of the Department of the Treasury and Department of Finance to prepare costings of publicly announced Government and Opposition election commitments during the caretaker period. The Act does not apply to:</p> <ul style="list-style-type: none"> <li>• costings outside the caretaker period</li> <li>• costings by agencies other than the Treasury or Finance during the caretaker period</li> <li>• costing of minor party and independents' commitments during the caretaker period.</li> </ul> <p>Ministers can request costing information from other agencies in accordance with longstanding practice. Where necessary, agencies may seek advice from the Treasury and Finance on strictly factual issues and costing methodology</p> <p>Ministers can also request any agency, including the Treasury and Finance, to provide costing information in relation to minor parties' and independents' commitments.</p> <p>The Parliamentary Budget Office may prepare policy costings during and outside of caretaker periods on request. Costings prepared during the caretaker period must be publicly released, while those prepared outside caretaker may be kept confidential if requested.<sup>159</sup></p>
Queensland (Qld.)	The Queensland Caretaker Guidance does not contain any information about the creation of an independent budget report prior to an election.	The QLD Caretaker Guidance points to section 89 of the <i>Financial Accountability Act 2009</i> (Qld.), stating: 'Queensland Treasury employees may not give oral or written comments or cost estimates relating to the policy proposals of a political party or candidates for election, to anyone other than another Queensland Treasury employee. However, this does not apply if a Queensland Treasury employee is specifically authorised under another Act to give the comments or estimates.' <sup>160</sup>
New South Wales (NSW)	The NSW Caretaker Guidance does not refer to the pre-election budget statement released by the Secretary of NSW Treasury 'on or as soon as reasonably practicable after the commencement of the caretaker period.' The statement updates the matters set out in the previous half-yearly budget review issued by the Treasurer. <sup>161</sup>	A Parliamentary Budget Officer is appointed under the <i>Parliamentary Budget Officer Act 2010</i> (NSW) taking effect on or as soon as practicable after 1 September the year prior to the election. The Premier and Leader of the Opposition may request costings for publicly announced or proposed policies anytime after the appointment of the Parliamentary Budget Officer and approval of the operational plan. The Act also requires the Officer to prepare budget impact statements for each party regarding all policies costed, which are publicly released on the fifth last day before the election <sup>162</sup>
Victoria (Vic.)	The Victorian Caretaker Guidance does not refer to the Pre-Election Budget Update which is publicly released by the Secretary of the Department of Treasury and Finance within 10 days after the issue of the writ for the election in accordance with the <i>Financial Management Act 1994</i> (Vic). <sup>163</sup>	<p>The Parliamentary Budget Office (PBO) is empowered to perform policy costings under <i>Parliamentary Budget Officer Act 2017</i> (Vic). The PBO may undertake policy costings during the 'election costing period', being the period beginning on the moving of the second reading of the Annual Appropriation Bill in an election year (or dissolution of the Legislative Assembly, whichever is earlier), ending at 5pm the Thursday before the election date. Requests for costings by the PBO can be made by the parliamentary leaders.<sup>164</sup></p> <p>Government and non-government political parties (including independents and candidates) may also request costings from the Department of Treasury and Finance (provided all assumptions are known and don't require extensive policy research). Costings are published on the Department's website.<sup>165</sup></p>

<sup>158</sup> *Charter of Budget Honesty Act 1988* (Cth), Pt 7.

<sup>159</sup> Australian Government, Department of Prime Minister and Cabinet, *Guidance on Caretaker Conventions*, December 2024, pp 10–11.

<sup>160</sup> Queensland Government, Department of Premier and Cabinet, *2024 State General Election: Guidelines on the Caretaker Conventions*, undated, p 7; *Financial Accountability Act 2009* (Qld), Pt 6.

<sup>161</sup> *Parliamentary Budget Officer Act 2010* (NSW), s 24 (1).

<sup>162</sup> *Parliamentary Officer Act 2010* (NSW), s 6; NSW Government, Department of Premier and Cabinet, *Caretaker Conventions and Other Pre-Election Practices – 2023 General State Election*, p 15.

<sup>163</sup> *Financial Management Act 1994* (Vic), s 27C.

<sup>164</sup> *Parliamentary Budget Officer Act 2010* (Vic), Pt 3.

<sup>165</sup> Victoria Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions*, April 2022, p 16.

Jurisdiction	Information relating to the pre-election budget update	Information relating to election costings
Tasmania (Tas.)	<p>The Tasmanian Caretaker Guidance does not refer to the Pre-Election Financial Outlook report which may be released by the Secretary of the Department of Treasury and Finance within 10 days of the commencement of the election costing period. contain specific information about the creation of a pre-election Budget update.</p> <p>The <i>Charter of Budget Responsibility Act 2007</i> (the Act) requires the Secretary of the Department of Treasury and Finance to review and make an assessment of material movements since the most recent published estimates for the current Budget year and the following three financial years.</p> <p>If the estimates do not vary materially from the information presented in either the Revised Estimates Report or Budget Papers, whichever is more recent, the Secretary must inform the Premier and publicly release a notice that no report will be issued.</p> <p>If the estimates vary materially from the information presented in the Revised Estimates Report or the Budget Papers, whichever is more recent, the Secretary must prepare a report which is be provided to the Premier and must also be publicly released.<sup>166</sup></p>	<p>The <i>Charter of Budget Responsibility Act 2007</i> (Tas.) provides for costings of Government and non-government parties policies. Guidelines are issued by the Secretary of the Treasury department outlining the process for requests during the ‘election costing period’, which runs from the dissolution or expiry of the House of Assembly through to the close of polls. The Act requires the Secretary to prepare costings for publicly announced government and opposition party policies during the caretaker period. These must be requested by the Premier or Leader of the opposition.<sup>167</sup></p>
South Australia	<p>The South Australian Caretaker Guidance does not contain any information about the creation of an independent budget report prior to an election.</p>	<p>The South Australian Caretaker Guidance does not contain any information about the process for pre-election policy costings.</p>
Western Australia (WA)	<p>Under the <i>Government Financial Responsibility Act 2000</i> (WA), the Under Treasurer is required to release a Pre-Election Financials Projections Statement within 10 days after the Legislative Assembly is dissolved.<sup>168</sup></p>	<p>Major political parties may seek public sector costings of publicly announced election commitments. Major political parties are defined as having five members or more in Parliament.</p> <p>These requests must be made after the pre-election Financial Projections Statement has been released and the Caretaker conventions set out specific timeframes and formats for requests to be made to the Under Treasurer. All costings prepared by the Under Treasurer are published online within three working days of the written request having been received.<sup>169</sup></p>
Northern Territory (NT)	<p>The Northern Territory Caretaker Guidance does not refer to the Pre-Election Fiscal Outlook Report which is released within 10 days of the issue of a writ for a Northern Territory general election in accordance with the <i>Fiscal Integrity and Transparency Act 2001</i> (NT).<sup>170</sup></p>	<p>The NT Caretaker Guidance does not contain any information about the process for pre-election policy costings.</p>
Australian Capital Territory (ACT)	<p>The Under Treasurer is required under Section 20C(1) of the <i>Financial Management Act 1996</i> (NT), 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.<sup>171</sup></p> <p>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. The budget update should support an assessment of the government’s financial performance against its financial policy objectives and strategies.</p> <p>The budget 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.<sup>172</sup></p>	<p>The ACT Caretaker Guidance refers to the <i>Election Commitments Costing Act 2012</i> (ACT) and <i>Guidelines for Costing Election Commitments 2024</i>, which outline the requirements and process for costing of election commitments before and after the election day.<sup>173</sup></p> <p>The costing period commences one week after the last sitting day of the Legislative Assembly before the election and ends with the election of the Chief Minister on the first sitting day of the Legislative Assembly after the election.</p> <p>Costings can be requested by the leader of a registered party or independent MLA in the Assembly with one or more MLAs (or another person nominated by the party) for a publicly announced election commitment. Details of the election commitment, requester and date of the request are made publicly available as soon as practicable after their receipt. Costing requests received prior to polling day are published on the Chief Minister, Treasury and Economic Development Directorate website before polling day, however a copy of the costing is provided to the requester prior to publication. The same process is followed for costing requests received on or after polling day, with the costing to be provided by the end of the costing period and as soon as practicable.<sup>174</sup></p>

<sup>166</sup> *Charter of Budget Responsibility Act 2007* (Tas), Pt 5.

<sup>167</sup> *Charter of Budget Responsibility Act 2007* (Tas); Tasmanian Government, Department of Premier and Cabinet, *Guidelines on the Caretaker Conventions and the operations of government during the caretaker period*, undated, p 24.

<sup>168</sup> *Government of Western Australia*, Department of Premier and Cabinet, *Pre-election Financial Projections Statement*, 7 February 2025.

<sup>169</sup> *Government of Western Australia*, Department of Premier and Cabinet, *2025 Caretaker Conventions: Guidelines applying in Western Australia during the State General Election period*, February 2025, pp 12–13.

<sup>170</sup> *Fiscal Integrity and Transparency Act 2001* (NT), Pt 7.

<sup>171</sup> *Financial Management Act 1996*, s 20C(1) and s 20D.

<sup>172</sup> ACT Government, Chief Minister, Treasury and Economic Development Directorate, *2024 General Election: Guidance on Caretaker Conventions*, September 2024, p 7.

<sup>173</sup> ACT Government, Chief Minister, Treasury and Economic Development Directorate, *2024 General Election: Guidance on Caretaker Conventions*, September 2024, p 7.

<sup>174</sup> *Elections Commitments Costings Act 2012* (ACT) Pt 2 and Dictionary.

# Appendix F: Dissenting Report by Mr Taimus Werner-Gibbings MLA

## Dissent from Recommendation 6

- 6.3. My dissent from this recommendation is based on two fundamental points.
- 1.2.1. This inquiry was established to examine Caretaker Conventions and their operation in the ACT. Caretaker Conventions are **not an equality mechanism**.
  - 1.2.2. Caretaker Conventions serve **only** to “ensure governments do not make decisions during an election period that may bind an incoming government.”
  - 1.2.3. Non-executive MLAs do not have access to factual information provided to the ACT Government by the ACT Public Service during normal (non-caretaker) periods of government.
  - 1.2.4. No norm in the ACT’s Caretaker Conventions, or any other Australian jurisdiction’s caretaker conventions, enables special, equal access to “factual information” during the caretaker period.
- 1.3. From a resourcing perspective, I’d hazard that the real-time publication of “factual information” (a concept not defined in this report) would place an undue burden on the ACTPS during the campaign period. It would also illuminate a tiny fraction of a government’s time in office and provide a very unbalanced view of government activities, since only matters arising during the caretaker period would be publicly available.
- 1.4. Recommendation 6 should be excised from this Report.

## Additional comments to follow Paragraph 4.32

- 4.33. “Unnecessary haste” is my colleagues’ construal of the Head of Service’s decision. My judgment is that it is incumbent upon a Head of Service to furnish the Leader of the Party they believe has won the election with necessary information as quickly as possible.
- 4.34. The Head of Service made her **correct** decision to provide the Incoming Government Brief to the Chief Minister based on standard information – concession speeches, victory speeches, media reporting and, presumably, ACT political party policies and positioning in the lead-up to the election, as well as previous post-election negotiations and outcomes.
- 4.35. On all evidence available (indeed, on all evidence available 15 months later), there was no viable alternative Chief Minister with whom the Head of Service could begin engaging in the lead-up to the first sitting of the 11<sup>th</sup> Assembly.
- 4.36. The unstated preference of my colleague’s comments in paragraph 4.32 appears to be that the Head of Service should wait until the end of the Caretaker Period before exercising her judgement to provide either a re-elected Government or a newly elected alternate Government their respective post-election briefs. In 2024, the caretaker period ended 17 days after the election. This major delay is, *at best*, the opposite of what any incoming government demands.
- 4.37. All governments need the information they need to govern effectively as soon as possible. To enforce a two- and half-week information vacuum on any government, let alone an opposition transitioning into government, lays the groundwork for un-prepared and uninformed decision-making.
- 4.38. Furthermore, the Committee heard **no evidence** that the ACT Labor Party received any imbalancing information from the ACT Public Service in the lead-up to or during the post-election negotiations with the ACT Greens.

## Additional Comments to follow Recommendation 5

- 4.41 The Head of Service’s judgement that Andrew Barr would be re-elected Chief Minister at the end of the 2024 Caretaker Period was *correct*.
- 4.42 Election night speeches, media coverage, and their own interpretation of the results are exactly the sort of information that the Head of Service should rely on as a reasonable and sufficient evidence to begin engaging with the Leader of a Party they judge most likely to be Chief Minister. Indeed, when to begin that engagement is the Head of Service’s decision to make based on “a body of corporate knowledge about past application combined with sound judgment”.

## Additional Comments to follow Finding 3

- 5.27 This finding is correct in so far as it suggests that the basic framework of Australian democracy is not entirely fair. As a rule, information is not distributed evenly in the current Australian political system.
- 5.28 Nonetheless, it is important to restate that the Committee heard no evidence that the ACT Labor Party received any imbalancing information in the lead-up to or during post-election negotiations with the ACT Greens.
- 5.29 The Committee notes in its comments that further discussions would need to be had prior to the 2028 ACT Election to provide for greater equality of information in the quite specific circumstances of post-Hare-Clark election negotiations. This understates the task.
- 5.30 Providing for greater equality of information in post-election negotiations would require the development of an entire sub-set of new caretaker conventions. The drastically expanded scope of these new conventions would be relevant only to elections in the ACT and Tasmania (Tasmania has not developed a similar sub-set of new conventions in 117 years of Hare-Clark state elections). They would be a revolutionary departure from any set of Australian caretaker conventions, which are “shared norms that apply in the Westminster tradition”.
- 5.31 Absent that revolution, the ACT’s Caretaker Conventions will – very properly – never serve to mitigate an imbalance of information.
- 5.32 Welcome to Westminster.

Mr Taimus Werner-Gibbings MLA

24 February 2026