



Cabinet Office

Circular

15 December 2017

Intended for	All Ministers All Chief Executives Chief of Staff, Office of the Prime Minister Chief of Staff, Office of the Leader of the New Zealand First Party Chief of Staff, Office of the Co-Leaders of the Green Party All Senior Private Secretaries All Private Secretaries Chief Parliamentary Counsel
---------------------	---

Labour-New Zealand First Coalition, with Confidence and Supply from the Green Party: Consultation and Operating Arrangements

Introduction

- 1 This circular provides practical guidance for Ministers and departments on implementing the coalition agreement between Labour and New Zealand First and the confidence and supply agreement between Labour and the Green Party entered into when the government was formed following the 2017 general election.
- 2 Ministers and chief executives will be familiar with the agreements:
 - 2.1 the [2017 New Zealand Labour Party and New Zealand First coalition agreement](#) [PDF 4.24MB];
 - 2.2 the [2017 New Zealand Labour Party and Green Party of Aotearoa New Zealand confidence and supply agreement](#) [PDF 4.20MB].
- 3 The two agreements and the Cabinet Manual were endorsed by Cabinet on 26 October 2017 as the basis on which the government will operate.

Summary of key points

- 4 The key points are:
 - 4.1 The relationships between the parties are based on good faith and a “no surprises” approach. Careful planning, timely consideration, and clarity about the roles of all concerned are key to making the arrangements work effectively.
 - 4.2 All Ministers, Ministers’ offices and chief executives need to be familiar with the two agreements, and ensure that they have processes in place to implement them.

- 4.3 Ministers are responsible for ensuring that the parties to the coalition and confidence and supply agreements are consulted and included as set out in the agreements, working through their respective Chief of Staff.
- 4.4 Ministers are expected to consult other relevant portfolio Ministers (from whichever party) before submitting papers that deal with significant or potentially controversial matters or that affect other Ministers' portfolio interests.
- 4.5 All legislative proposals must first be consulted between Labour, New Zealand First and the Green Party to ensure that there is sufficient parliamentary support to proceed with the proposal.
- 4.6 There will also be consultation between the parties on significant government appointments.
- 4.7 Political consultation between the parties will be coordinated by the Prime Minister's Chief of Staff and the Chiefs of Staff of the offices of the Leader of New Zealand First and the Co-Leaders of the Green Party.

Arrangements between Labour and New Zealand First and collective responsibility

- 5 Labour and New Zealand First, under the terms of the coalition agreement, will be coalition parties in government on the basis that they:
 - 5.1 agree to support and promote the matters and issues which have been subject to agreement between them;
 - 5.2 will work collaboratively and in good faith to reach agreement on particular policy and legislative initiatives.
- 6 Labour and New Zealand First Ministers as members of the coalition are subject to the principle of collective responsibility as set out in the Cabinet Manual. This means that once Cabinet makes a decision, Ministers must support it (unless "agree to disagree" provisions apply) regardless of their personal views and whether or not they were at the meeting concerned.
- 7 As provided for in the Cabinet Manual and coalition agreement, the parties may decide to "agree to disagree" on some particular issues or policies where negotiated between the party leaders. In such circumstances, the parties may express alternative views publicly and in Parliament.
- 8 Any issues or policies subject to "agree to disagree" arrangements will be determined on a case by case basis between the Labour and New Zealand First party leaders.

Collective responsibility and the Green Party

- 9 As provided for in the confidence and supply agreement, the Green Party have agreed to be bound by collective responsibility in relation to their portfolios¹ (including any specific delegated responsibilities). This means that when Green Party Ministers speak about the issues within their portfolios, they speak for the government and as part of the government.
- 10 When Green Party Ministers speak about matters outside their portfolios, they may speak as political party leaders or members of Parliament (MPs) rather than as Ministers, and do not necessarily represent the government position.
- 11 In public, or in any written communications, Green Party Ministers should be clear about the capacity in which they are speaking (as Minister, or as a member of a political party), particularly if disagreeing with government decisions outside their portfolios.
- 12 When Green Party Ministers represent the government internationally, they speak for the government on all issues that foreign governments may raise with them in their capacity as Ministers.
- 13 As provided for in the confidence and supply agreement, the parties may apply “agree to disagree” provisions in some areas. Any issues or policies subject to “agree to disagree” arrangements will be determined on a case by case basis between the Labour and Green Party leaders. In such circumstances, the parties may express alternative views publicly and in Parliament.

Confidentiality principle

- 14 The principle of confidentiality applies to all Ministers for the discussion that takes place at Cabinet and Cabinet committee meetings, and for the information contained in Cabinet material they receive.
- 15 Confidentiality applies to all Cabinet material that Ministers have access to unless it has been publicly released. Ministers should not use information that they have confidential access to for the purposes of public disagreement on issues where the coalition parties have “agreed to disagree” or where Green Party Ministers speak about matters outside their portfolio responsibilities.

Cabinet and Cabinet committees

- 16 Coalition and support party Ministers will be members of Cabinet committees. Ministers will receive all Cabinet material for the committees that they are on. This information is confidential to those Ministers in their capacity as a Minister.
- 17 For committees where they are not members, support party Ministers, like other Ministers, will receive copies of any papers relevant to their portfolios and may attend committee meetings for those items.
- 18 As noted above, support party Ministers are bound by collective responsibility only in respect of their own portfolios, but are bound by confidentiality in respect of everything else (the content of papers and the discussion at Cabinet and Cabinet committee meetings).

¹ References to Ministers also apply to Parliamentary Under-Secretaries.

- 19 Ministers outside Cabinet, including support party Ministers, may seek agreement from the Prime Minister to attend Cabinet when significant matters specifically relating to their portfolios are being considered.

Consultation

General

- 20 Timely consultation between portfolio Ministers and between parties is essential to the successful operation of the Cabinet decision-making system and the coalition and confidence and supply agreements.
- 21 Labour and New Zealand First have committed to work together in coalition government in good faith and with no surprises, reflecting appropriate notice and consultation on important matters, including the ongoing development of policy.
- 22 Labour and the Green Party have committed to consensus decision-making where possible. The Green Party is to be consulted on issues including the broad outline of the legislative programme, significant legislative, regulatory and policy changes, and broad Budget parameters and process.
- 23 All Ministers must be consulted as appropriate in line with their portfolio responsibilities, no matter which party they represent. This should occur as part of normal government business and Cabinet processes.
- 24 Alongside the process of Ministerial portfolio consultation, political consultation will also occur where required between Labour and New Zealand First and with the Green Party. On some particularly significant or sensitive issues, the political consultation process between the parties may supersede the usual Ministerial portfolio consultation processes.

Ministerial consultation

- 25 As a general rule of Cabinet, Ministers should put before their colleagues the sorts of issues on which they themselves would wish to be consulted. Ministers should keep their colleagues informed about matters of public interest, importance, or controversy.
- 26 Ministers from all parties are expected to consult relevant ministerial colleagues before submitting papers that deal with significant or potentially controversial matters, or that affect other Ministers' portfolio interests. Such consultation between portfolio Ministers is a key element of the Cabinet decision-making process, and supports collective responsibility and a "no surprises" approach.
- 27 It is the responsibility of the lead portfolio Minister when submitting Cabinet papers to ensure that timely consultation occurs with Ministers who have portfolio responsibilities potentially affected by the matters in the Cabinet papers that they are submitting. Managing the consultation process may take some time. Ministers and officials should factor the time required for consultation into their planning on each issue.
- 28 When a Minister from another party is being consulted, it is important to identify the capacity in which that consultation is taking place. It should be clear to all involved whether the Minister's views are being sought as a portfolio Minister, or as a representative of his or her party.

Party consultation and overall coordination

- 29 Consultation between Labour and New Zealand First and with the Green Party will be undertaken on all significant policy and legislative proposals², significant government appointments, and other particularly sensitive or controversial issues.
- 30 In the interests of maintaining an overview of the consultation being undertaken, the overall management of consultation between the parties is the responsibility of the Prime Minister, supported by her Chief of Staff working with the Chief of Staff of the office of the Leader of New Zealand First and the Chief of Staff of the office of the Co-Leaders of the Green Party.
- 31 In some circumstances, depending on the issue under consideration, the process for consultation between the parties may supersede the usual Ministerial consultation processes when it becomes clear that the issue would be better dealt with through consultation between the Prime Minister's office and party leaders' offices.
- 32 Ministers and staff in Ministers' offices are expected to inform the Prime Minister's office or relevant party leader's office of any sensitive or potentially complex issues that will require party consultation at an early stage in the process. If there is any uncertainty about consultation matters, Ministers should liaise with the Prime Minister's office or relevant party leader's office.

Consultation on legislation before submission to LEG and Cabinet

- 33 Coalition party Ministers and Green Party Ministers will be members of the Cabinet Legislation Committee (LEG). All proposals involving proposed legislation must be consulted between Labour and New Zealand First and with the Green Party to ensure that there is sufficient parliamentary support to proceed with the proposal. Although consultation will have been undertaken at the policy development stage, further consultation needs to occur at the draft bill stage.
- 34 This consultation involves two levels:
- 34.1 Firstly, the consultation that is undertaken at departmental and Ministerial portfolio level on a draft bill should occur in the usual way to ensure that relevant departmental and Ministerial portfolio interests have been taken into account.
- 34.2 Secondly, political consultation between the parties will also be undertaken to confirm support for the Bill. This consultation will occur between the Chiefs of Staff. Ministers' offices should advise their respective Chief of Staff of upcoming draft Bills. Papers seeking approval for the introduction of Bills should not be submitted to LEG until the Minister's office has received confirmation from their respective Chief of Staff that there is support for the Bill to proceed.
- 35 Ministers and departments need to allow sufficient time for these consultation processes. No assumptions should be made on the timing of the passage of legislation. Where departments are aware that timing is critical in relation to particular bills (e.g. for fiscal reasons) they should advise their Minister so that the matter can be raised with the Leader of the House as appropriate.

² This includes significant regulatory proposals.

Consultation on significant government appointments

- 36 The consultation requirements between Ministers and parties also apply to significant government appointments. Coalition party Ministers and Green Party Ministers will also be members of the Cabinet Appointments and Honours Committee (APH).
- 37 Ministers should consult other relevant portfolio Ministers on proposed government appointments as appropriate, such as where there is a statutory requirement to consult a Minister on an appointment, or consultation with other Ministers to seek nominations to ensure an appropriate level of representativeness of the proposed appointments (eg with the Minister for Women and the Minister for Maori Development).
- 38 At an early stage in the process Ministers should also seek nominations from other parties for significant government appointments through their respective Chief of Staff. Ministers' offices should advise their respective Chief of Staff of upcoming significant appointments. Papers should not be submitted to APH until the Minister's office has received confirmation from their respective Chief of Staff to proceed with the paper to APH.

Coordination of government announcements

- 39 All significant government announcements will be coordinated by the Prime Minister's office.
- 40 Ministers' offices should keep the Prime Minister's office informed of all significant proposed announcements and speeches.

Role of departments

- 41 Departments are not expected to play any direct part in the consultation between the parties, as that is a matter to be determined by Ministers and the Prime Minister's office. Contact between departmental officials, and other Ministers, government caucuses or other parliamentary parties should take place only with the prior approval of the relevant Minister.
- 42 Departments may be called on to support Ministers in their consultation with other parties and caucuses. Officials should obtain clear instructions from their Minister on the nature of the contact (i.e. whether they will be supporting a briefing, or a process of consultation or negotiation by Ministers).
- 43 Departments may, on occasion, be asked by their Minister to meet representatives of other parliamentary parties without the Minister present. On such occasions, all those at the meeting should clearly understand that officials are able to provide only a briefing on the issues. As a matter of practice, departments are advised to keep a record of the substance of any such meeting and consider providing that record to all those who attended the meeting as well as to the Minister. It is also expected that a representative of the relevant portfolio Minister's office or the Prime Minister's office will attend these meetings.
- 44 Arrangements should be in place between Ministers' offices and the departments (or agencies) for which they are responsible, to ensure that departments are informed when the consultation process has been completed and action can be taken to implement the decisions.

Further advice

- 45 Ministers' offices concerned about the application of the guidance in this circular to particular papers or issues should discuss them with the Prime Minister's Chief of Staff or their respective party leader's office in the first instance, or with the Cabinet Office.
- 46 Departments and other agencies that have questions about the application of the guidance should discuss them with their Minister's office in the first instance, or with the Cabinet Office.

Michael Webster
Secretary of the Cabinet

Enquiries:

Martin Bell
Deputy Secretary of the Cabinet
Ph: 817 9740

Gordon Jon Thompson
Chief of Staff
Prime Minister's Office
Ph: 817 8750