

**CONSENSUS GOVERNMENT
IN THE NORTHWEST TERRITORIES**

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**GUIDING PRINCIPLES AND
PROCESS CONVENTIONS**

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16TH LEGISLATIVE ASSEMBLY

Table of Contents

Consensus Government in the NWT – Guiding Principles	1
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Process Conventions:

• The Role of Caucus.....	3
• Planning, Prioritizing and Scheduling of Standing Committee Briefings.....	6
<i>Appendix A</i> – Guidelines for the Conduct of Committee Meetings in Public Venues.....	10
• Standing Committee Review of Legislative Proposals	11
• Consideration and Enactment of Bills Under the Administration of the Speaker and Board of Management of the Legislative Assembly	14
• Standing Committee Review of Proposed Policy Initiatives and Implementation Plans	17

Consensus Government in the NWT

Guiding Principles

1. Consensus government is not defined by the absence of party politics. It is defined by the ability and willingness of all Members of the Legislative Assembly to work together, within their respective roles, for the collective good of the people of the Northwest Territories.
2. Consensus government is a unique combination of the British traditions of ministerial responsibility, cabinet solidarity and legislative accountability and the aboriginal traditions of open dialogue, inclusive decision-making, accommodation, respect and trust.
3. Open and respectful communication between all Members is the most essential feature of consensus government. While it is impossible to reach unanimous agreement on all issues, the opportunity for all Members to have meaningful input into important decisions is fundamental.
4. Effective communication is a “double-edged sword.” For consensus government to work, all Members must agree to respect the confidentiality of information before it is properly made public. Similarly, Members should acknowledge the fact that information was shared in confidence once it has been released.
5. Except under extraordinary circumstances, Members of the Legislative Assembly should be made aware of and have opportunity to discuss significant announcements, changes, consultations or initiatives before they are released to the public or introduced in the Legislative Assembly. Use of the element of surprise is inconsistent with consensus government.
6. The role of the Caucus is fundamental to the effectiveness of consensus government. Caucus provides a venue for all Members to set broad strategic direction for a Legislative Assembly and discuss matters of widespread importance to the Northwest Territories as they arise.
7. The Premier and Cabinet are appointed by the Members of the Legislative Assembly to provide overall leadership and direction in accordance with the broad strategic direction set by the Caucus. Cabinet must have the ability to implement this strategic direction effectively and efficiently but in a way that reflects the concerns of Regular Members and maintains their support.
8. Unlike a party-based parliamentary system, the Regular Members are not a “Cabinet in Waiting.” Their ultimate goal is to support Cabinet in implementing the broad strategic direction set by the Caucus.

9. As with all parliamentary systems of government, a healthy level of tension must exist between Cabinet and Regular Members. While the ultimate goal of the Regular Members is not to defeat or discredit Cabinet, it is their responsibility to review and monitor the leadership and direction of Cabinet and hold it to account.
10. The attendance and participation of all Members of the Legislative Assembly within their respective roles is essential to the effectiveness of consensus government. Formal sessions of the Legislative Assembly and meetings of Caucus, Cabinet and standing and special committees must be a priority for every Member.

PROCESS CONVENTION

The Role of Caucus

Guiding Principle

The role of the Caucus is fundamental to the effectiveness of consensus government. Caucus provides a venue for all Members to set broad strategic direction for a Legislative Assembly and discuss matters of widespread importance to the Northwest Territories as they arise.

Guiding Principles: 1, 3, 4, 5, 6 and 10

General Protocols

1. Caucus is intended to provide a venue where Members can share their views and build consensus on matters that are highly sensitive in nature or of broad and strategic importance to all Members or the Northwest Territories.
2. Caucus is not a decision-making body. Caucus discussions should not limit or replace debate on the floor of the legislature, in Cabinet or Committees. Nothing in this protocol is intended to limit the rights and privileges normally enjoyed by Cabinet, the House or its Members and Committees.
3. The important role that Caucus plays in consensus government depends upon the ability of every Member to express their views in an honest and forthright fashion. Caucus cannot function without an absolute guarantee of confidentiality. No Member other than the Chair or Deputy Chair, when specifically authorized to do so, should comment upon or release information about matters discussed in Caucus.
4. Whenever possible, Caucus direction should be determined through consensus. In those cases where no clear consensus emerges, a vote may be taken. The results of votes are determined by the Chair and are not recorded.
5. Caucus is not intended to replace the formal roles and responsibilities of the House, the Speaker, Ministers, Cabinet, Committees or the Board of Management. Nothing in this protocol should be seen as limiting these roles and responsibilities.

Roles and Responsibilities in the Caucus

1. The Chair and Deputy Chair are selected by the Caucus. These appointments are not formally ratified by the House. The Chair and Deputy Chair are Members who do not serve on Cabinet, as Speaker or as Chair of a Standing Committee of the House. The

election of Chair and Deputy Chair is presided over by the Clerk of the Legislative Assembly. The Chair or Deputy Chair serve at the pleasure of Caucus and may be removed at any time.

2. The Chair is responsible for calling meetings of the Caucus, approving and distributing draft agendas and supporting materials and maintaining order and decorum in meetings. When clearly and specifically authorized to do so, the Chair and Deputy Chair may speak publically on behalf of Caucus.
3. All MLAs serve as equal members of Caucus and are encouraged to participate in discussions free from Cabinet or Committee solidarity. Reference to Members by titles held outside the Caucus is discouraged. On rare occasions, Members may be expected to speak to a matter in an official role held outside the Caucus. For example, the Government House Leader may be called upon to advise Caucus of upcoming government House business or the Speaker may be called upon to advise Caucus of the proposed appointment of a statutory officer.
4. The Speaker of the Legislative Assembly is a member of caucus and is entitled to participate in discussions without the usual restraints that accompany this office.

Caucus Meetings

1. Caucus meets regularly when the House is in Session. Caucus also meets on the afternoon of day preceding the commencement of a legislative sitting. Regular meetings of Caucus take place in the Caucus Room of the Legislative Assembly.
2. At least twice a year the Caucus meets when the House is not in Session. These meetings normally take place outside the capital and are scheduled at the call of the Chair after consulting with all Members. The Chair may call a special meeting of Caucus at any time after consulting with as many Members as possible.
3. Quorum for a Caucus meeting is a majority of sitting MLAs. A Caucus meeting may not commence until a quorum is established. Once a quorum has been established, the meeting is not terminated by the subsequent loss of quorum unless the attention of the Chair is drawn to such loss of quorum.
4. The attendance of all Members at Caucus meetings is essential to the effectiveness of consensus government. Attendance at regular and special Caucus meetings must be a priority for every Member.
5. As Caucus is not a formal decision-making body, minutes or records of decision are not kept. Caucus agendas and supporting information are confidential as is correspondence from the Chair or Secretary to Members.

Mandate of Caucus

1. Establishing, evaluating and promoting the Principles of Consensus Government and the consensus government protocols
2. Orientation of a newly-elected Legislative Assembly
3. Setting and evaluating the implementation of a vision and goals for a Legislative Assembly
4. Emergency or strategic issues of immediate concern to all Members
5. Political evolution of the Northwest Territories
6. Members' Code of Conduct and disciplinary matters
7. Appointment of a Commissioner and other key House appointments
8. Meetings with senior elected federal, provincial and territorial officials
9. Legislation affecting Members directly
10. House planning and scheduling

PROCESS CONVENTION

Standing Committee Review of Legislative Proposals

Application

This process convention is not intended to govern Appropriation Acts, Supplementary Appropriation Acts, Write-off of Debts Acts, Forgiveness of Debts Acts, Loan Authorization Acts, Miscellaneous Statutes Amendment Acts or any other legislative initiative, e.g. taxation measures, for which legislative proposals are not normally required by Cabinet.

General Considerations

It is in the interests of consensus government that Standing Committees are provided with an opportunity to review legislative proposals and provide advice to the Government in advance of Cabinet decisions.

Legislative proposals are Cabinet documents that must be kept confidential. Cabinet also reserves the right to keep a legislative initiative confidential up to the time that a bill is introduced in the Legislative Assembly.

While Cabinet decisions on legislative proposals are pending, individual Ministers are not in a position to make any commitments regarding the initiative. All advice and other communication from Standing Committees should therefore be addressed to the Government House Leader, who has overall responsibility for the Government's legislative agenda.

In consideration of the limitations noted above, Standing Committee review of legislative proposals may not be a conclusive exercise in terms of reaching full agreement prior to the introduction of a bill in the Legislative Assembly. The Committee's advice will guide the government in determining the advisability of proceeding.

Nothing in this process convention precludes Cabinet's prerogative to introduce bills in the Legislative Assembly or the right of Committees and Regular Members to debate these bills.

Guiding Principles: 1, 2, 3, 4, 5 and 8

Authority

This Process Convention is established under the authority of the Executive Council and the undersigned Standing Committees and may be amended at any time by agreement of the Executive Council and Standing Committees.

Process

1. A legislative proposal is prepared, signed by the Minister responsible and submitted to Cabinet via the Cabinet Secretariat.
2. At the discretion of the Government House Leader or upon request from the sponsoring Minister, a legislative proposal may be reviewed by Cabinet before it is referred to Standing Committee. Regardless, Cabinet will not approve a legislative proposal before comments have been received from a Standing Committee.
3. The legislative proposal is forwarded by the Government House Leader to the Chair of the appropriate Standing Committee. All Ministers are copied on this correspondence. The Standing Committee on Priorities and Planning will also be copied on this correspondence if the legislative proposal is being referred to a different Standing Committee.
4. The Standing Committee reviews the legislative proposal. The Minister and officials may be invited to this meeting to provide additional information. However, it is understood that the legislative proposal is a Cabinet document and that the Minister cannot make changes to the proposal or make any commitments regarding the content of a bill.
5. Standing Committee advice on a legislative proposal is provided in a letter from the Committee Chair to the Government House Leader. The sponsoring Minister is copied on this correspondence.
6. Upon receipt of Standing Committee advice and the completion of an assessment report by central agencies, the Government House Leader will arrange for the legislative proposal to be put before Cabinet for final consideration. The proposal, assessment report and Standing Committee letter goes before Cabinet as a package.
7. The Government House Leader will, prior to the beginning of each sitting of the Legislative Assembly, provide Caucus with a list of bills anticipated for introduction in that sitting.

Chair, Executive Council

Date

Chair, Standing Committee on
Priorities and Planning

Date

Chair, Standing Committee on Economic
Development and Infrastructure

Date

Chair, Standing Committee on
Government Operations

Date

Chair, Standing Committee on
Social Programs

Date

PROCESS CONVENTION

Consideration and Enactment of Bills Under the Administration of the Speaker and Board of Management of the Legislative Assembly

General Guidelines

This process convention applies to the consideration and enactment of bills that fall under the administration of the Speaker and the Board of Management of the Legislative Assembly. Currently, these would include bills to amend or replace the following statutes:

- *Legislative Assembly and Executive Council Act;*
- *Elections and Plebiscites Act*
- *Electoral Boundaries Commissions Act;*
- *Retiring Allowances Act;*
- *Supplementary Retiring Allowances Act;*
- *Human Rights Act, Part 3;*
- *Official Languages Act, Part 2; and*
- *Access to Information and Protection of Privacy Act, Part 4, Division A.*

Nothing in this Process Convention detracts from the financial prerogative of the government as expressed in Section 25 of the *Northwest Territories Act*.

Guiding Principles: 3, 5 and 6

The Process

1. The need to amend one of the above-noted statutes, or to introduce a new bill, is identified. The need may be identified by any one of the following:
 - The Legislative Assembly, including an MLA, a Standing or Special Committee or Committee of the Whole;
 - The Speaker or the Board of Management;
 - Caucus;
 - The Executive Council;
 - The Independent Commission to Review Members' Compensation and Benefits;
 - The Conflict of Interest Commissioner;
 - The Chief Electoral Officer;

- The Electoral Boundaries Commission; or
 - Any member of the public.
2. Consultation with affected agencies and special interest groups including any of those listed in Step 1.
 3. A legislative proposal is drafted by the Clerk of the Legislative Assembly and forwarded to the Speaker for signature and submission to the Board of Management.
 4. The Board of Management considers the legislative proposal and will either:
 - Approve it;
 - Approve it subject to amendments;
 - Defer it to another meeting; or
 - Reject it.
 5. Depending upon the source and nature of the legislative proposal, the Speaker may elect to brief the full Caucus prior to rejecting a legislative proposal or issuing drafting instructions for a bill.
 6. The Clerk of the Legislative Assembly issues drafting instructions to the Department of Justice (Director, Legislation Division) for the preparation of a bill.
 7. If required or appropriate, the Board of Management may authorize an early draft of the bill to be circulated to affected Departments, Agencies or special interest groups for comment.
 8. The bill is finalized, signed off by the Clerk of the Legislative Assembly and then translated into French by the Department of Justice. The Director, Legislation Division transmits the bill to the Clerk of the Legislative Assembly advising that the bill is ready for the consideration of the Speaker and Board of Management.
 9. The Board of Management considers the draft bill and will either:
 - Approve it;
 - Approve it subject to amendments;
 - Defer it to another meeting; or
 - Reject it.

If approved, the Board will designate one of its members to move (sponsor) the bill in the House and another member to second the bill.

10. The Speaker will provide a clause-by-clause briefing of the draft bill to the full Caucus prior to introduction in the House.

11. The Clerk of the Legislative Assembly prepares standard text for Notice of Motion for 1st Reading, 1st Reading, 2nd Reading and 3rd Reading of the bill in the House.
12. The Clerk of the Legislative Assembly will ensure that the mover (sponsor) of the bill is briefed on the bill and is prepared to speak to the principle of the bill at Second Reading, if necessary.
13. The sponsor of the bill gives Notice of Motion for First Reading of the bill on a date agreed to by the Caucus. First and Second Reading of the bill are given in accordance with the Rules of the Legislative Assembly. Unless otherwise directed by the Caucus, the sponsor of the bill will, as part of the Motion for Second Reading, move that the bill be referred directly to Committee of the Whole for consideration.
14. Committee of the Whole determines when the bill will be considered.
15. The Clerk of the Legislative Assembly ensures that the sponsor of the bill has opening remarks to introduce the bill in Committee of the Whole.
16. Committee of the Whole review: The sponsor of the bill delivers opening remarks. If agreed to by the Committee, the sponsor of the bill will invite witnesses into the House for discussion and clause-by-clause review. The Speaker does not appear before Committee of the Whole to defend the bill. Witnesses will normally include the Clerk of the Legislative Assembly and the Director, Legislation Division, Department of Justice.
17. When Committee of the Whole review is complete, the Bill is reported to the Speaker as ready for Third Reading. The Bill is given Third Reading and Assent in accordance with the Rules of the Legislative Assembly.
18. If the bill has no “coming into force” provision, it is law immediately upon Assent being given by the Commissioner of the Northwest Territories.

PROCESS CONVENTION

Standing Committee Review of Proposed Policy Initiatives and Implementation Plans

Application

Proposed policy initiatives subject to this Convention are those policies considered for approval by the Commissioner in Executive Council and the signature of the Premier. This would include both the establishment of new policies and substantive amendments to, or rescinding of, existing policies. This Process Convention does not apply to minor administrative amendments, which will not significantly impact established policy commitments.

This Convention also applies to Standing Committee briefings on implementation schedules, communication plans, and implementation tools required to bring a new or substantively amended Commissioner in Executive Council approved policy into force.

Guiding Principles 1, 3, 4, 5 and 7

General Considerations

It is in the interests of consensus government that Standing Committees are provided with an opportunity to review proposed policy initiatives and provide advice to the Government in advance of Cabinet decisions.

These policy initiatives are proposed statements of the government's commitment to the public and must be kept confidential until approved by Cabinet.

One of the guiding principles of consensus government is that Members of the Legislative Assembly should be made aware of and have the opportunity to discuss significant announcements, changes, consultations, or initiatives before they are released to the public.

Authority

This Process Convention is established under the authority of the Executive Council and the undersigned Standing Committees and may be amended at any time by agreement of the Executive Council and Standing Committees.

Process

1. A proposed policy initiative is prepared, signed by the Minister responsible and submitted to Cabinet via the Cabinet Secretariat.
2. Cabinet considers the proposed policy initiative. The only decision made at this time is whether or not the proposed policy initiative should be referred to Standing Committee for review and comment.
3. If approved for referral to Standing Committee, the proposed policy initiative is referred by the Premier to the Chair of the appropriate Standing Committee. The letter of transmission includes an indication of a preferred date for Cabinet consideration of the initiative so that the Standing Committee will have an understanding of the time frame for providing comments. The Minister responsible is copied on this correspondence. The Standing Committee on Priorities and Planning will also be copied on this correspondence if the proposed policy initiative is being referred to a different Standing Committee.
4. The Standing Committee reviews the proposed policy initiative. The Minister and officials may be invited to this meeting to provide additional information. However, it is understood that the proposed policy initiative is a Cabinet document and that any recommendations or advice regarding modifications to the proposed policy initiative, or advice on the proposed policy's implementation, must be provided in the form of a letter from the Standing Committee Chair back to the Premier. The Minister responsible is copied on this correspondence.
5. The Premier, following consultations with the Minister responsible for the original policy initiative, then makes a subsequent submission to Cabinet advising of any concerns raised by Standing Committee and recommending actions for Cabinet's consideration. The proposed policy initiative is received by the Cabinet Secretariat and the Cabinet Secretariat prepares an assessment of the initiative.
6. Cabinet considers the proposed policy initiative, along with Standing Committee comments and Cabinet Secretariat assessment.
7. The Premier advises the Standing Committee Chair of Cabinet's decision with respect to the proposed policy initiative, and any relevant implementation plans.
8. When Cabinet decides to establish a new policy review, the application of an existing policy, or substantively amend an existing policy in accordance with this Convention, the Minister responsible for implementing the Policy will provide both Cabinet and the appropriate Standing Committee with briefings on the relevant implementation and communication plans, as well as any significant implementation tools (e.g., ministerial policies, eligibility criteria, program guidelines), in advance of the Policy's application or implementation and any substantive public communications.

Chair, Executive Council

Date

Chair, Standing Committee on
Priorities and Planning

Date

Chair, Standing Committee on Economic
Development and Infrastructure

Date

Chair, Standing Committee on
Government Operations

Date

Chair, Standing Committee on
Social Programs

Date