



**CONSENSUS GOVERNMENT
IN THE NORTHWEST
TERRITORIES**

**GUIDING PRINCIPLES AND
PROCESS CONVENTIONS**

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Consensus Government in the NWT

Guiding Principles

1. Consensus government 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 business of consensus government should be carried out in public, unless there are compelling reasons to meet in private. Public meetings should be the rule and not the exception.
7. 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.
8. 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.

9. 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.
10. 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.
11. 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, 7 and 11**

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 rare cases where no clear consensus emerges, a vote may be taken. The results of votes are determined by the Chair.
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.

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

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. Regular meetings occur on Tuesdays at 10:30 a.m. Caucus also meets at 1:30 pm on the 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 once 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, promoting and, each year, reviewing the Principles of Consensus Government and the consensus government protocols
2. Orientation of a newly-elected Legislative Assembly.
3. Establishing the priorities for a newly elected Legislative Assembly.
4. Emergency or strategic issues of immediate concern to all Members

5. The political evolution of the Northwest Territories
6. Members' Code of Conduct and disciplinary matters
7. Appointment of officers of the Legislative Assembly.
8. Meetings with senior federal, provincial and territorial leaders.
9. Legislation affecting Members directly.
10. House planning and scheduling.



Chair, Caucus

March, 2, 2021
Date

Caroline Cochrane

Chair, Executive Council

March 2, 2021
Date



Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021
Date

PROCESS CONVENTION

Standing Committee Review of Legislation

Application

This process convention is not intended to govern Appropriation Acts, Supplementary Appropriation Acts, Miscellaneous Statutes Amendment Acts or any other legislative initiative, eg. Taxation measures for which legislative proposals are not normally required by Cabinet. It does not apply to bills brought forward by the Board of Management or Speaker of the Legislative Assembly.

Guiding Principles: **1, 2, 3, 4, 5, 6 and 9**

General Considerations

It is fundamental to consensus government that the Standing Committee on Accountability and Oversight (AOC) is provided with an opportunity to review legislative proposals and provide advice to Cabinet prior to the introduction of legislation in the Legislative Assembly.

Legislative proposals are Cabinet documents that must be kept confidential.

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 communication from AOC on legislative initiatives will be addressed to the Government House Leader, who has overall responsibility for the Government's legislative agenda.

In consideration of the limitations noted above, the AOC's 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. AOC'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 Standing Committees and Regular Members to debate and introduce amendments to these bills.

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

1. A legislative proposal is prepared, signed by the Minister responsible and submitted to Cabinet via the Cabinet Secretariat.
 - a. The legislative proposal shall identify the complexity of the legislative initiative based on the following categories:

- i. Low – such as minor or housekeeping amendments to existing legislation and codifies existing practices and policies;
 - ii. Medium – such as significant changes to existing legislation to expand the scope of an Act, introduce new powers or authorities, or codify new policies or practices; or
 - iii. High – such as a repeal or replacement of an existing Act, or introduces a new legislative scheme or regime.
 - iv. The descriptions of these categories are just guides, and some initiatives may fall into a different category based on scope.
 - b. The legislative proposal shall identify whether the legislation will be developed with the participation of a Technical Working Group and/or in collaboration with Indigenous governments and organizations.
 - c. The legislative proposal shall identify whether the legislative initiative is of a nature where s. 22(2) of the *Northwest Territories Act*, SC 2014 may apply, and the consent of the Governor in Council will be required.
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 the Standing Committee on Accountability and Oversight.
3. The legislative proposal is forwarded by the Government House Leader to the Chair of AOC. All Ministers are copied on this correspondence..
4. AOC shall review the legislative proposal. Where a legislative proposal identifies the initiative as high complexity, departmental officials should be prepared to provide a briefing on the proposal. AOC retains the prerogative to request a briefing on any legislative proposal, regardless of the level of complexity. However, it is understood that the legislative proposal is a Cabinet document officials cannot make changes to the proposal or make any commitments regarding the content of a bill.
5. AOC's advice on a legislative proposal is provided in a letter from the Chair to the Government House Leader. The sponsoring Minister is copied on this correspondence. As part of its response, AOC can indicate that it does not agree with the Government's assessment of the complexity of the Bill.
6. AOC will endeavor to consider and provide a response to legislative proposals within six weeks of receipt subject to AOC's meeting schedule. The Government House Leader will forward legislative proposals to AOC upon receipt and will be mindful of AOC's meeting schedule when forwarding legislative proposals to the Committee. As part of its response, AOC will indicate which Standing or Special Committee the bill should be referred to, if it is brought forward.
7. Upon receipt of AOC's 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 AOC correspondence goes before Cabinet as a package.

8. 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, and an overall update on the Government's legislative agenda.

A. Drafting of a Bill

1. Where a proposed Bill is being drafted in collaboration with a Technical Working Group or Indigenous Governments, the sponsoring Minister shall consider whether and how the appropriate Standing Committee could be engaged in the process. In doing so, the Minister may wish to consult with Committee on how they could be engaged.

B. Introduction of a Bill

1. After a Bill is read for the second time, the sponsoring Minister shall table in the Assembly, a plain language summary of the Bill at the earliest opportunity in the same sitting. Where relevant, the summary may also include information on the purpose of the Bill, and engagement undertaken in developing the Bill.
2. Upon second reading of a Bill, where AOC and the Government House Leader agree that a high complexity legislative initiative requires a longer-period of review, the responsible Standing Committee shall seek unanimous consent to waive the Rules to provide a review period of 180 days.

C. Standing Committee Review of a Bill

1. On high complexity legislative initiatives, at the request of the Standing Committee, the sponsoring Minister may arrange for knowledgeable Departmental staff to accompany Standing Committees when they are conducting public hearings on a bill. The Departmental staff may be asked to provide a presentation on the Bill or answer any technical questions from the public that are referred to them by the Committee Chair. The sponsoring Minister and Standing Committee shall agree on the role of Departmental staff before any public hearing process begins.
2. At any time prior to clause by clause review of a Bill, the Standing Committee can request to meet with the sponsoring Minister and their officials to discuss technical or policy issues that have been raised during their engagement on the Bill.
3. All correspondence related to a Bill, shall be between the Government House Leader and the Chair of the Standing Committee reviewing the Bill, copying the sponsoring Minister, the Principal Secretary, the Deputy Clerk, House Procedure and Committees, the Director, Research and Committee Advisory Services, and the Legislative Coordinator.
4. As early as possible, Standing Committee shall share with the Government House Leader and sponsoring Minister any amendments Committee will be proposing to the Bill. Similarly, the sponsoring Minister shall share as early as possible Cabinet's position

on the amendments with Standing Committee. Recognizing this exchange may often occur during a sitting, Committee will seek to provide a minimum of 48 hours' notice of amendments prior to clause-by-clause review, and a Minister will seek to advise of Cabinet's position a minimum 2 hours prior to clause-by-clause review.

5. Amendments to legislation moved and adopted by Committee during its clause by clause review, will fail unless concurred with by the sponsoring Minister. Any amendment not concurred with by the sponsoring Minister can be moved by a Member during Committee of the Whole review of the Bill.
6. The Standing Committee may, by way of a motion moved and adopted by Committee, report that a Bill not be proceeded with.
7. In the case of a bill that Standing Committee reports as not to be proceeded with, the bill will move to Committee of the Whole upon report of the Committee, unless withdrawn at that time by the mover and seconder of the Bill.

D. Review of Legislation Following Standing Committee's Report on the Bill

8. During clause-by-clause review of a bill in Committee of the Whole, any Member may move a motion to amend the Bill. If the motion is passed, the Bill is amended. Concurrence from the sponsoring Minister is not required.
9. A Member may also move amendments to a bill at third reading. If the motion is adopted by the Assembly, the bill is amended. Concurrence from the sponsoring Minister is not required.
10. All motions to amend a bill must be in writing and in English and French.



Chair, Caucus

March 2, 2021

Date



Chair, Executive Council

March 2, 2021

Date



Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021

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 of legislation that falls under the administration of the Speaker and the Board of Management of the Legislative Assembly including 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 35 of the *Northwest Territories Act, SC. 2014, c.2, s.2.*

Guiding Principles: 3, 5, 6 and 7

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

1. The need to amend one of the above-noted statutes, or to introduce a new bill, is proposed by any one of the following:
 - a. The Legislative Assembly, including an MLA, a Standing or Special Committee or Committee of the Whole;
 - b. The Speaker or the Board of Management;
 - c. Caucus;
 - d. The Executive Council;
 - e. The Independent Commission to Review Members' Compensation and Benefits;
 - f. The Conflict of Interest Commissioner;
 - g. The Chief Electoral Officer;
 - h. The Electoral Boundaries Commission; or
 - i. 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:
 - a. Approve it;
 - b. Approve it subject to amendments;
 - c. Defer it to another meeting; or
 - d. 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. 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:
 - a. Approve it;
 - b. Approve it subject to amendments;
 - c. Defer it to another meeting; or
 - d. 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 First Reading, First Reading, Second Reading, referral to Committee of the Whole and Third 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.



Chair, Caucus

March 2, 2021
Date

Caroline Lachance

Chair, Executive Council

March 2, 2021
Date

 (S. LINDEN)

Chair, Standing Committee on
Accountability and Oversight

02 MARCH
Date

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 policy into force.

Guiding Principles 1, 3, 4, 5 and 8

General Considerations

It is fundamental to 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 Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

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 Accountability and Oversight 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, apply a policy that had previously not been approved or applied, 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 implementation, application and any substantive public communications.



Chair, Caucus

March 2, 2021
Date



Chair, Executive Council

March 2, 2021
Date



Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021
Date

PROCESS CONVENTION

Transition Stewardship

Definition

Transition Period: For the purposes of this convention, transition period refers to the period between the dissolution of one Legislative Assembly through to the appointment of Members of the Executive Council for the next Assembly.

Preamble

During a transition period an outgoing Cabinet cannot be held accountable for its decisions in the same manner that Cabinet/Financial Management Board (FMB) can be held responsible before the dissolution of an Assembly.

Further, during a transition period the business of government, including legal and intergovernmental commitments and routine matters of administration, still needs to be addressed.

For both these reasons, during a transition period an outgoing Cabinet/FMB should avoid, whenever possible, making any new and significant policy decisions, contractual commitments, or appointments which were not previously referred for Standing Committee review and comment.

Guiding Principles **1, 3, 4 and 5**

This process convention will be implemented in accordance with the following Caucus approved guiding principles for Consensus Government in the NWT:

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

- (1) Within the three months immediately preceding the dissolution of a Legislative Assembly and not less than one month before the dissolution, Cabinet/FMB will provide the Standing Committee on Accountability and Oversight with a confidential briefing which will identify any:
 - a) significant intergovernmental, labour, program, or contractual negotiations currently underway which could reasonably be expected to conclude or require final approval during the transition period;
 - b) significant policy reviews, program assessments or strategic evaluations currently underway which could reasonably be expected to lead to significant policy decisions during the transition period;
 - c) vacancies or pending vacancies that might require appointments during the transition period which have the potential to be controversial; and

- d) planned departmental or agency restructuring.
- (2) The Standing Committee on Accountability and Oversight will, not less than two weeks before the dissolution of a Legislative Assembly, provide Cabinet/FMB written comments on the issues and plans identified in the briefing referred to in paragraph (1) above.
 - (3) The outgoing Cabinet/FMB will not decide on any new and significant policy decisions, contractual commitments, or appointments during the transition period without first considering:
 - a) specific comments received from the Standing Committee on Accountability and Oversight in accordance with paragraph (2) above;
 - b) the principles of "good faith negotiations" and the reasonable expectations of third parties, especially with respect to intergovernmental negotiations;
 - c) the extent to which a decision would preempt or fetter the authority of the next Legislative Assembly;
 - d) the implications of deferring the decision to the next Cabinet/FMB or Legislative Assembly; and
 - e) the spirit and intent of this process convention.
 - (4) Following the first sitting of a new Legislative Assembly and before the second sitting of that Assembly, the Secretary to Cabinet and the Clerk of the Legislative Assembly shall, jointly and in confidence, bring to the attention of the incoming Cabinet and the incoming Standing Committee on Accountability and Oversight:
 - a) those matters brought to the attention of the former Standing Committee on Accountability and Oversight in accordance with paragraph (1) above and any substantive comments offered by the former Standing Committee on Accountability and Oversight in accordance with the paragraph (2) above; and
 - b) any new and significant policy decisions, contractual commitments, or appointments made by the outgoing Cabinet/FMB during the transition period.



 Chair, Caucus

March 2, 2021

 Date



 Chair, Executive Council

March 2, 2021

 Date



 Chair, Standing Committee on

02 MARCH 2021

 Date

PROCESS CONVENTION

Territorial Leadership Committee

General Considerations

The Territorial Leadership Committee (TLC) is the vehicle used by the Northwest Territories' consensus style government to recommend the appointment of the Speaker, Premier and Members of the Executive Council to the Legislative Assembly and Commissioner of the Northwest Territories. The Territorial Leadership Committee is a unique meeting of all duly elected Members of the Legislative Assembly. Its meetings are not governed by the Rules of the Legislative Assembly and constitute neither a formal sitting of the House or one of its standing or special committees. Its decisions do not carry the weight of law and are not binding in any way.

The Speaker and Premier are appointed by motion of the Legislative Assembly. The Executive Council is composed of the Premier chosen by the Legislative Assembly and persons appointed to the Executive Council by the Commissioner on the recommendation of the Legislative Assembly. The size and structure of the Executive Council is governed by political convention only. It is up to each Legislative Assembly to determine the size and make-up of its Executive Council and the timing of its appointment. These conventions, known as the "Guidelines and Procedures for Selection of Speaker, Premier and Members of the Executive Council (Guidelines and Procedures)" may be reviewed and revised as often as Caucus sees fit. The most up-to-date Guidelines and Procedures are included in this protocol as Appendix 1.

Guiding Principles **1, 2, 6 and 7**

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Protocols

Initial Meeting

1. The first meeting of the Territorial Leadership Committee following a general election is called by the Clerk of the Legislative Assembly following consultation with the full Caucus membership. Until such time as a Speaker-elect and a Caucus Chair have been chosen, the Clerk serves as Chair of the Caucus and the TLC.
2. Prior to the first meeting of the Territorial Leadership Committee, the Clerk will review the existing Guidelines and Procedures with the Caucus. At least two days prior to the initial Territorial Leadership Committee meeting, Caucus will adopt the "Guidelines and Procedures" with or without amendment.
3. Immediately following Caucus adoption of the Guidelines and Procedures, the Clerk will issue a media release advising of the time and location of the Territorial Leadership

Committee meeting and the Guidelines and Procedures adopted by Caucus. The most up-to-date version of this media release is included in this protocol as Appendix 2.

4. At the conclusion of the Territorial Leadership Committee meeting, the Clerk will issue a media release advising who has been recommended by the TLC for appointment as Speaker, Premier and Members of the Executive Council.
5. The Clerk will draft formal motions of appointment for the Speaker and Premier-elect and a formal motion to recommend the appointment of Members of the Executive Council. The Clerk will first call upon Members who were nominated for each of the positions in question (where applicable) to move and second the motions. Failing this, the Clerk will seek the advice of the successful candidates for each position as to who should move and second the motions.
6. Immediately following adjournment of the sitting day at which the above-noted motions are adopted, the Speaker will preside over a Swearing-in Ceremony for the Members of the Executive Council. At this ceremony, the Commissioner will be called upon to administer the Oath of Office for Members of the Executive Council.

Subsequent Meetings

1. Following the initial appointment and/or swearing-in of a Speaker, Premier and Member of the Executive Council, vacancies in these offices may occur by reason of resignation, death or revocation of appointment by the Legislative Assembly or the Commissioner on the recommendation of the Legislative Assembly.
2. The only means by which a lack of confidence in the appointment of the Speaker, Premier or one or more Members of the Executive Council may be expressed is by way of the adoption of a formal motion duly moved, seconded and resolved in the Legislative Assembly in accordance with its Rules.
3. If the position of the Speaker or Premier becomes vacant, the Deputy Speaker or the Deputy Premier, as the case may be, exercises the powers and performs the duties of that office until a new Speaker or Premier is appointed by the House. If the vacancy occurs within six months of the scheduled dissolution of a Legislative Assembly, the Deputy Speaker or Deputy Premier will continue to exercise the powers and perform the duties of that office in an acting capacity until a Speaker and Premier are selected by the next Legislative Assembly.
4. If one or more vacancies occur on the Executive Council within six months of the scheduled dissolution of a Legislative Assembly, the vacancy will not be filled. The ministerial responsibilities of the former Minister will be redistributed by the Premier or the Deputy Premier, as the case may be, to the remaining Members of the Executive Council.
5. If the number of vacancies occurring within six months of the scheduled dissolution of a Legislative Assembly causes the number of Members appointed to the Executive Council to fall below four, Caucus will meet to fill one or more of the vacancies as if they had occurred more than six months prior to the scheduled dissolution (see process outlined below).
6. If the appointment of the Speaker, Premier or a Member of the Executive Council is ended for any reason more than six months prior to the scheduled dissolution of the Legislative

Assembly, the Chair of Caucus will, after consulting with all Members, call a meeting of the Caucus. Every effort will be made to schedule this meeting no later than four weeks from the effective date of the vacancy.

7. At the Caucus meeting, the Clerk will review the existing Guidelines and Procedures with the Caucus. Caucus will adopt the "Guidelines and Procedures" with or without amendment.
8. Immediately following Caucus agreement on the Guidelines and Procedures, the Clerk will issue a media release advising of the time and location of the Territorial Leadership Committee meeting and the Guidelines and Procedures adopted by Caucus.
9. Following the establishment of a date for the Caucus meeting, the Speaker will call a meeting of the Territorial Leadership Committee to take place on the first working day following the Caucus meeting. If the Legislative Assembly is in recess and is not scheduled to sit on the day following the Territorial Leadership Committee meeting, the Speaker will recall the House on the first working day following the TLC meeting in the Speaker will recall the House on the first working day following the TLC meeting in accordance with an Extended Adjournment Motion. If a Session of the Legislative Assembly has been prorogued, the Speaker shall request the Commissioner of the Northwest Territories to convene a special Session at the appropriate date and time.
10. At the conclusion of the Territorial Leadership Committee meeting, the Clerk will issue a media release advising who has been recommended by the TLC for appointment as Speaker, Premier or Member of the Executive Council.
11. The Clerk will draft either formal motions of appointment or a formal motion to recommend the appointment of a Member or Members of the Executive Council. The Clerk will first call upon Members who were nominated for the positions in question (where applicable) to move and second the motion or motions. Failing this, the Clerk will seek the advice of the successful candidates for each position as to who should move and second the motion or motions.
12. If the vacancy in question pertains to the Office of the Speaker, the person appointed assumes the role in the House immediately upon adoption of the motion. If the vacancy in question pertains to the Premier or a Member of the Executive Council, the Speaker will preside over a Swearing-in Ceremony at the adjournment of the sitting day at which the motion is adopted. At this ceremony, the Commissioner will be called upon to administer the Oath of Office for Members of the Executive Council.



Chair, Caucus

March 4, 2021

Date



Chair, Executive Council

March 4, 2021

Date

SH (S.P. MORN)

Chair, Standing Committee on
Accountability and Oversight

04 MARCH 2021

Date

PROCESS CONVENTION

Communications between Cabinet, Ministers, Standing Committees and Regular Members

Application

This process convention is not intended to supersede the existing roles, authorities or privileges of individual members of the Legislative Assembly, Standing Committees, the Executive Council, Ministers or the Speaker.

Guiding Principles: **3, 4, 5, 6 and 8**

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Processes

1 Regular Meetings between Premier and Regular Members

- a) Formal meetings between the Premier and the Regular Members may be initiated at the request of either party and will be held not less than three times a year. The purpose of these meetings will be to discuss issues of mutual interest and concern and are not meant to replace or exclude other opportunities for the Premier to appear before the Standing Committee on Accountability and Oversight.
- b) The Clerk of the Legislative Assembly and the Principal Secretary (or their respective designates) will identify specific agenda topics, and attend the formal meetings to provide procedural advice as necessary.
- c) Decisions as to whether to invite other Ministers and officials and when to conduct a meeting *in camera* will be made by the Premier and Regular Members on a case by case basis.

2 Advance Notice of Media Communications

- d) The Premier will provide Regular Members with a weekly listing of planned government news releases and media advisories, indicating the planned release date, subject of the release and main government message to be communicated. The listing will allow Regular Members to make better and more informed decisions and seek further information from Ministers on planned announcements of particular interest to them.
- e) Information prepared for distribution at media events and not otherwise distributed to the public will be shared in advance with Regular Members.

- f) While the Premier will make best efforts to provide Regular Members with a complete list of upcoming communications each week, there may be times when the Government will need to comment on breaking news or make an unplanned announcement. In these instances, Regular Members will be provided with advance copies of approved news releases two (2) hours before they are issued to the media.
- g) Government boards and agencies are responsible for their own media relations, including issuing their own news releases and media advisories to the press. Each Minister's office will make best efforts to directly advise Regular Members in advance of releases that they are aware of being issued by boards and agencies.
- h) From time to time, the Government may redistribute news releases already issued by other governments or external organizations concerning events or initiatives the GNWT is involved in. As such releases are being redistributed after initial distribution by another organization, and are already publicly available, they will not be provided in advance to Regular Members.
- i) Standing Committees and Regular Members will provide the Premier's Office with copies of proposed news releases two (2) hours before they are issued to the media. This will allow Government to respond to potential requests for interviews and information in a timely fashion.
- j) In the event of a civil emergency or natural disaster, the Government has a responsibility to provide residents with accurate and timely information on the situation and Government emergency operations. This will be done in the form of emergency bulletins issued by the Press Secretary. Time is of the essence in emergency communication and Members will receive emergency bulletins at the same time as they are issued to media.
- k) MLAs representing communities or regions affected by an emergency will receive summary operational reports as information becomes available. Other MLAs will receive these reports on request. Reports will include information on the current status of the situation, GNWT departments responding and current public messaging. Reports will be provided by the responsible Minister for situations involving one department or the Minister of Municipal and Community Affairs for situations involving multiple departments. Reports will be for the information of Members only and all requests for additional information should be directed to the appropriate Minister.

3 Consultations with Standing Committees

- a) From time to time, Cabinet may wish to seek considered input from a Standing Committee on a proposed Government initiative, plan, activity or discussion paper. In these instances, Cabinet may provide a Committee with proposals, draft plans or discussion papers for the Committee's formal review and comment. Proposals, plans and discussion papers provided under this section are to be considered confidential and will be clearly identified as confidential and not for distribution nor subject to commentary or scrutiny on social media platforms or other public mediums. In addition, the confidentiality of any input received from Standing Committee will also be fully respected and will be considered strictly confidential by all parties involved.

- b) When seeking Standing Committee input under this section Cabinet will identify, with proper regard to both Committee calendars and to operational demands, a reasonable date by which a response is requested. If no written response is received by the identified date Cabinet may assume the Standing Committee's consent to proceed. Cabinet may consider a written request from a Standing Committee to extend the consultation period.
- c) Written input provided by a Standing Committee under the signature of the Chair or Deputy Chair shall reflect accurately the views of the Committee. While individual MLAs reserve the right to disagree with the written input of a Committee, only the Committee itself can amend the written input previously provided.

4 Materials Provided to Regular Members or Standing Committees For Information Only

- a) As a matter of course, Ministers may distribute information to Regular Members or Standing Committees for information only. Ministers will clearly identify materials distributed for information only so as not to confuse the distribution of that information with requests for feedback on confidential draft materials or proposals as addressed under the consultation section above.
- b) Regular Members or Standing Committees may request further information or briefings on materials distributed under this section. Such requests should be made in writing and directed to the appropriate Minister.

5 Advance Notices and Briefings Offered to Standing Committees

- a) From time to time, Ministers may wish to provide a Standing Committee with advance notice of a Government initiative or activity. Advance notices issued under this section will be clearly identified as notices and should be distinguished from requests for input addressed under the consultation section above.
- b) From time to time, Ministers may wish to offer a Standing Committee a briefing on a particular subject. Briefings offered under this section will be clearly identified as offers to brief and should be distinguished from requests for input under the consultation section above.

6 Public Briefings and Meetings with Standing Committees

- a) Where Ministers offer or agree to a request to brief a Standing Committee, the briefing will be held in public. If confidential matters are expected to be discussed in the course of the briefing, or if they arise after the briefing has commenced, the Minister or any member of the committee may request that the meeting or a portion of it be held *in camera*.
- b) The decision to hold all or a portion of a briefing *in camera* rests with the Standing Committee on the understanding that Ministers may be limited in terms of what information they can provide in public.
- c) For the purposes of this protocol, confidential matters include:

- i. the draft business plan or budget of a department or public agency prior to their introduction in the Legislative Assembly;
 - ii. a proposed policy initiative, legislative proposal or bill prior to its formal introduction in the Legislative Assembly;
 - iii. a personnel matter relating to an employee or statutory officer;
 - iv. concerns with the performance of a specific Minister; and
 - v. any other matter, where a member of the committee or the Minister identifies the matter as one which is, or would likely be, protected by privacy and data protection laws.
- d) A motion to hold all or a portion of a committee meeting *in camera* shall include the nature of the item to be discussed as well as the rationale for discussing the matter *in camera*.

7 Technical Briefings

- a) From time to time, Ministers may offer or Standing Committees may request a technical briefing to provide detailed information on a specific program, initiative or proposal.
- b) Technical briefings are briefings provided by senior government officials and technical experts. Ministers do not attend technical briefings,
- c) Standing Committees may request technical briefings on specific programs, initiatives or proposals.

8 Identifying Confidential Information

- a) When sharing information with a Standing Committee under this Process Convention, Cabinet will clearly identify which materials are, and which materials are not, being provided in confidence. When Cabinet has a plan to eventually publicly release information provided to a Committee in confidence, it will indicate when such a public release might take place and when the embargo on Standing Committee disclosure imposed under this Process Convention will be lifted.
- b) In the event that information provided to a Standing Committee in confidence under (a) is published, Cabinet may be required to speak publically on that information to address public concerns or media inquiries. In such circumstances, Cabinet will make every reasonable effort to provide advance notice to standing committees by the most efficient means available.

9 Tracking and Reporting on Regular Members' Requests

- a) Ministers will endeavour to ensure that written requests from Regular Members are responded to within five business days from the Minister's receipt of the request. Written request should be sent to Ministers via e-mail or letter, text messages and/or

social messaging will not be considered a written request. Should more than five days be required to address a Regular Member's request, Minister's will advise the Regular Member that more time is required, the reasons why more time is required and an anticipated response date.

- b) To ensure accountability and tracking, ministerial staff should be included in correspondence. When e-mailing the Minister, carbon copy (cc) the Ministers Executive Administrative Coordinator and the Ministerial Special Advisor.
- c) Detailed and lengthy inquiries about government policies and programs that are complex in nature may best be handled through other means such as Oral and Written Questions in the House, Committee briefings and the review of Legislative Proposals, Business Plans and Budgets.

10 Providing Committee Presentation Materials

- a) Ministers will provide copies of all presentation decks and related briefing materials to the appropriate standing committee at least three (3) business days prior to the scheduled date of delivery. The receipt of these materials will allow Committee Members to review information in advance and make optimal use of the limited time and resources available to Ministers and Committees, particularly during sittings of the Assembly.
- b) Occasionally a briefing is either offered or requested with very little or no advance notice. In such instances, the time requirement will be waived through mutual agreement of the parties involved.

11 Advance Notice of Ministerial and Standing Committee Travel

- a) The Premier will, whenever possible, provide a minimum of two weeks advance notice to Regular Members of any planned Ministerial travel or visits to constituencies outside of the capital.
- b) Ministers will, whenever possible, provide a minimum of two weeks advance notice of any public meetings being held by their departments in a Member's constituency.
- c) The Standing Committees will, whenever possible, provide a minimum of two weeks advance notice to the Premier's Office of any planned Committee travel to constituencies outside of the capital.
- d) A weekly activities advisory listing Ministerial travel will be prepared and circulated to all Members by the Premier's Office.

12 Advance Notice of Protocol Visits

- a) Regular Members will be advised of planned protocol visits to the NWT being organized by the GNWT by letter from the Premier as soon as details of proposed visits are confirmed.

13 Absences During Sittings of the House

- a) The Premier will provide a written summary of planned absences of Ministers that are scheduled to occur during a sitting of the Assembly to the Accountability and Oversight Committee on or before the first sitting day of each sitting.
- b) To the greatest extent possible, Ministerial absences during sittings of the House will be limited to obligatory federal/provincial/territorial (FPT) meetings.

14 Correspondence addressed to all Regular Members

- a) Government correspondence directed to all Regular Members will also be copied to the Clerk of the Legislative Assembly and other appropriate staff unless there are compelling reasons not to do so.

15 Invitations to Participate in Ministerial Travel

- a) When a Minister believes it is appropriate to involve a Regular Member in ministerial travel, the Minister shall invite the appropriate Standing Committee to nominate one of its Members to join the Minister in that travel.
- b) A Regular Member's travel expenses arising out of Ministerial travel will be paid by the Minister's Department and publicly reported through the Ministerial Travel Report.
- c) Regular Members accompanying Ministers on trips will be identified in the weekly Ministerial travel and activities advisory distributed to media.

16 In the Absence of an Appropriate Standing Committee

- a) During the period between the Legislative Assembly's official establishment of a Standing Committee on Accountability and Oversight and the Legislative Assembly's formal establishment of the Assembly's Committee structure, communications between the Executive Council and Regular Members should be directed through the Standing Committee on Accountability and Oversight.



 Chair, Caucus

March 2, 2021

 Date



 Chair, Executive Council

March 2, 2021

 Date



 Chair, Standing Committee on
 Accountability and Oversight

02 MARCH 2021

 Date

PROCESS CONVENTION

Priority Setting and Reporting

Preamble

The priorities determined at the beginning of a Legislative Assembly guide the work of all Members over the term of an Assembly. Although each Legislative Assembly builds on the legacy of previous assemblies as reflected in existing laws, policies, programs, and services, no Assembly can be bound by the decisions of a previous Assembly.

Consensus government is a form of responsible government. The Executive Council provides overall leadership and direction, and is responsible to the Legislative Assembly for its decisions. Regular Members of the Legislative Assembly review and monitor these decisions in order to hold the government to account. The Executive Council must maintain the confidence of the Legislative Assembly. This is the essence of responsible government.

Guiding Principles 6, 7, 8 and 10

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight and may be amended at any time by the agreement of all parties.

Process

Priority Setting

1. At the beginning of a Legislative Assembly, after the orientation of Members-elect, each Member shall be invited by the Clerk to make a public statement about what the Member believes should be the priorities for the forthcoming legislative term. These statements shall be transcribed and the transcriptions made public.
2. Following a public statement of priorities by each individual Member, the Clerk shall convene a meeting of Caucus in order for the Caucus to establish a collective statement of priorities for the forthcoming legislative term. In establishing this collective statement of priorities, Caucus shall take into account the transcribed statements of all members of the current Assembly as well as the Report of the Special Committee on Transition Matters tabled during the last sitting of the previous Assembly.
3. The Caucus statement of priorities will be tabled in the first session of the Legislative Assembly.

Establishing a Mandate

4. Following the conclusion of the Territorial Leadership Committee and the swearing-in of Members of the Executive Council, the Premier shall promptly convene a meeting of the Executive Council to discuss a draft mandate for the forthcoming legislative term. This discussion shall take into account the stated priorities of all Members of the current

Assembly as well as the Report of the Special Committee on Transition Matters tabled during the last sitting of the previous Assembly.

1. The Premier shall request that the Chair of Caucus convene a meeting of Caucus so that the Executive Council may present to Caucus a draft mandate for the forthcoming legislative terms and to solicit feedback from all Members on the draft mandate.
2. The Premier shall schedule a subsequent meeting of the Executive Council to consider feedback from all Members expressed in Caucus and to discuss possible amendments to the draft mandate.
3. Caucus and/or the Executive Council may meet as often as is necessary before the Executive Council is satisfied that the draft mandate is sufficiently responsive to the stated priorities of all Members and sufficiently feasible for implementation by government.
4. The mandate shall form the basis for the Commissioner's Address made at the opening of the second session of a Legislative Assembly.
5. The mandate of the Executive Council shall be tabled by the Premier during the second session of a Legislative Assembly.
6. Once tabled, the mandate of the Executive Council shall be referred to Committee of the Whole and debated, prior to adoption by the Legislative Assembly.

Reporting

1. The Executive Council will be held to account for its progress implementing the mandate through the debate of its budgets, oral questions, meetings of legislative committees, and meetings between the Premier and Regular Members.
2. The Executive Council shall maintain a report on progress on the implementation of the mandate and provide that report to the Standing Committee on Accountability and Oversight not less than once every 12 months. The same progress report shall also be made available to the public in a timely manner.
3. At the mid-point of a legislative term, the Legislative Assembly will be prorogued to allow for Caucus to discuss the priorities, the mandate and progress made towards implementation.
4. The Legislative Assembly will resume with a Commissioner's Address that will reflect any adjustments to the priorities or the mandate.
5. Not less than four months before the dissolution of an Assembly, the Legislative Assembly should establish, by motion, a joint Special Committee on Transition Matters to prepare a report with recommendations on the transition process and major priorities for consideration by the next Assembly.
6. Prior to the last sitting before dissolution of an Assembly, the Executive Council shall provide to Caucus a report on the actions undertaken to implement the mandate. This report will be tabled in the final sitting of a Legislative Assembly.
7. The report of a Special Committee on Transition Matters will be tabled in the final sitting of a Legislative Assembly.



Chair, Caucus

March 2, 2021

Date



Chair, Executive Council

March 2, 2021

Date



Chair, Standing Committee on
Accountability and Oversight

02 MARCH 2021

Date