

Aboriginal and Torres Strait Islander Elected Body Caretaker Provisions

The Elected Body is established under the *Aboriginal and Torres Strait Islander Elected Body Act 2008* to enable Aboriginal and Torres Strait Islander people in the ACT to have a strong democratically elected voice. The Elected Body has seven members who represent the interests and aspirations of the local Aboriginal and Torres Strait Islander community and provides advice to the ACT Government with the aim of improving the lives of Aboriginal and Torres Strait Islander Canberrans as a step towards true reconciliation.

The Aboriginal and Torres Strait Islander Elected Body caretaker period is specified in the *Aboriginal and Torres Strait Islander Elected Body Act 2008* as commencing 47 days before the polling start date. For the 2017 elections, the caretaker period will commence on 15 May 2017. This period enables candidates to maximise the time from the election start date to promote their candidacy as well as assisting to maximise participation of Aboriginal and Torres Strait Islander Canberrans in the election.

To ensure transparency in the use of government funds, the Elected Body will not be able to access funding to hold events during this period. The convention also aims to ensure that the Elected Body's actions do not bind an incoming Elected Body or limit an incoming Elected Body's freedom of action.

In line with the ACT Governments caretaker convention that Ministers do not generally attend intergovernmental meetings, ATSIEB members would not generally take meetings as ATSIEB representatives with the ACT Government or other stakeholders during the caretaker period. Exceptions may be made where the Government requests urgent advice on a matter, as long as this would not require the development of a new ATSIEB position or in any way bind an incoming Elected Body.

The term of the current members of the Aboriginal and Torres Strait Islander Elected Body will end at the end of the day when the result of the ATSIEB election is declared as legislated in the ATSIEB Act in section 14(2)(a)(ii).

ACT Public Service Members

As is the case during the caretaker period before an ACT Legislative Assembly election, it is important that during the Elected Body election all ACT public service employees maintain public confidence in the integrity and impartiality of the ACTPS.

ACT public service employees, as members of the community, have a right to political expression and participation and are encouraged to be involved. A 'public employee' is defined in the *Public Sector Management Act 1994* as a person -

- (a) employed in the Service; or
- (b) employed by a Territory instrumentality or a statutory office holder.

Potential candidates should be cognisant of the extent to which their election to the Elected Body may necessitate them taking reasonable steps to avoid actual, perceived or potential conflicts in their official duties and that this may extend to seeking alternative duties.

It is not necessary for a person to receive a financial gain for a conflict of interest to be present. For example, conflicts can arise when dealing with issues where a person has affiliations or obligations to groups outside work.

As a general guide, the more closely an employee works on matters of interest to the Elected Body, or the more senior they are in the service, the more likely it is that questions of conflict will be raised.

Employees who are interested in running as a candidate for the Elected Body or are considering actively participating in the election process should remind themselves of their obligations under Section 9 of the PSM Act.

Public employees must not use official facilities for promotion of a candidacy. The use of official facilities includes use of meeting rooms, the use of government telephones, facsimile machines, e-mail, computers and photocopiers. Any electioneering activity or other election activity that involves expense to an agency is likely to constitute a breach of section 9 of the Act.

ACT public service employees must not take improper advantage of their position in the service, or information they hold, for personal benefit. In addition, they must not use public resources for personal gain. This includes using public service assets and networks to promulgate election related material.

Role of a Manager

Where a Manager is concerned that there may be, or may appear to be, a conflict between an employee's duties and their involvement in the Aboriginal and Torres Strait Islander Elected Body election, the issue should be discussed with the employee. Managers are responsible for resolving any issues about the status of public employees who are taking an active role in the election, in particular those public employees who are election candidates.

The circumstances of each situation, such as the seniority of the position held by the candidate, the prominence of their government job in the community, their duties and capacity to influence Government decision-making, must be considered by the relevant Manager. Importantly, the Manager should consider whether:

- the conflict or perceived conflict impairs the public employee's ability to exercise impartial decision making or maintain public confidence in decision making;
- the campaign involves improper use of information obtained through official duties or is unauthorised public comment; and
- the campaign involves the use of any official facilities, including the candidate's time during work hours.

Where a conflict is identified, the Manager must ensure that the public employee withdraws from the specific conflicting work interest, activity or task and takes action to separate themselves from the relevant work area or duty.