



Cayman Islands
Government

Version 1

Cabinet Manual

A guide to laws, conventions and rules
on the operation of Government

August 2022

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Foreward



His Excellency Martyn Roper, OBE Governor

This Cabinet Manual is pursuant to section 44(4) of the Cayman Islands Constitution Order (*as amended*) which states that subject to the Constitution, the Cabinet shall determine its own procedures for the conduct of its business. This Manual therefore seeks to set out the operational procedures, processes, guidelines and conventions that determine the operations of the Cabinet. It serves as a guide to Members of Cabinet, as well as the Civil Service. However, in the spirit of openness and transparency, this Manual is also being made available to the public.

Cabinet's approval of the Cabinet Manual on Wednesday, 27 July 2022 marked an important step towards strengthening the governance of the Cayman Islands. The Cabinet's role, while clearly set out in the Constitution, requires clear guidelines and a set of operating procedures that not only codify many established and long practised conventions, but also drives towards innovation and best practice.

In my constitutional role as Chair of the Cabinet, it is my duty to ensure that all Cabinet related business is conducted in observance of the principles and procedures set out in this Cabinet Manual. I applaud the Premier and his Cabinet for agreeing the Cabinet Manual and making it a public document, which will, for the first time, allow the public to gain a clearer understanding of the inner workings of their Government.

This monumental step combined with the elected Government's continued commitment to transparency, strengthens the Cayman Islands' solid reputation for being a mature, well run and stable jurisdiction which is governed by the rule of law. The evolution from Executive Council to Cabinet and the willingness to make necessary changes to our system of governance are signs of a healthy and thriving democracy, playing a crucial role in the Cayman Islands' success story.

Foreward



Hon. G. Wayne Panton, JP, MP
Premier

I am pleased that my Cabinet colleagues have once again demonstrated to the public a commitment to being People-centred, Accountable, Competent, and Transparent. By approving the Cabinet Manual on Wednesday, 27 July 2022, and also making it a public document, we have made good on more of our promises to the Cayman Islands. I also wish to publicly acknowledge that the PACT led administration has, to date, approved a Code of Conduct for Ministers and Members of Cabinet, agreed to the publication of summaries of Cabinet Meetings, and now demonstrated the political will to approve a much-needed Cabinet Manual.

History will show that the work to create a Cabinet Manual began in 2004 as part of an effort to update the 1995 Guide to the Operations of the then Executive Council. This was classified as a Restricted document and essentially remained in effect despite many of its provisions and references having long been superseded by a number of Constitutional amendments. During my first term as an elected Minister, I volunteered to work with the Cabinet Office in updating the Cabinet Manual and I am pleased that many of these changes have been incorporated.

The Cabinet Manual is a dynamic, living document which should, from time-to-time, be updated as we continue to improve our processes and procedures. However, any changes can only be approved by the Cabinet. In closing, I acknowledge the incredible effort of the Cabinet Office which has worked assiduously over multiple administrations to finalise the Cabinet Manual. By making this document accessible to the public, it is my hope that the people of the Cayman Islands will gain greater insight into the work of the Cabinet.

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Cabinet Manual

Citation

- 10 This manual may be cited as the Cabinet Manual – Cayman Islands.

Definitions

- 2.1 In this Cabinet Manual —

“clerk” means the Clerk of the Cabinet;

“Constitution” means the Cayman Islands Constitution Order 2009 (UKSI 1379/2009) as amended by Cayman Islands Constitution (Amendment) Order 2016 (UKSI 780/2016) and Cayman Islands Constitution (Amendment) Order 2020 (UKSI 1283/2020);

“member” means member of the Cabinet, including —
the Premier;
the Deputy Premier;
the six other Ministers; and
the Deputy Governor and the Attorney General, ex officio;

“Minister”, as defined in section 124 of the Constitution, means a member of the Cabinet who is appointed as the Premier or other Minister;

“Ministry” means the whole division of government administration for the actions of which a Minister is accountable to the Parliament and includes departments and units which form part thereof, but does not include a statutory authority or government company, the Office of the Ombudsman or the Audit Office;

“Portfolio” means the whole division of government administration for the actions of which an ex officio member is accountable to the Parliament, and includes departments and units which form part thereof, but does not include a statutory authority or government company; and includes the Governor’s office and the judicial administration;

“Premier”, as defined in section 124 of the Constitution, means a Premier appointed under section 49 of the Constitution;

“public office” as defined in section 124 of the Constitution, means an office of emolument in the public service;

“public officer”, as defined in section 124 of the Constitution means the holder of any public office, and includes a person appointed to act in any public office;

“public official”, as defined in section 28 of the Constitution —

- a. includes a public or governmental body, including any statutory body or company or association in which the Cayman Islands has an interest and which performs a public function or duty;

- b. includes any organisation or person carrying out a public function or duty, including the Governor, except where the nature of their act is private;
- c. unless otherwise stated, excludes private schools (whether or not in receipt of government funding, subsidy or other assistance), churches, the Legislature and the courts.

“public servant”, as defined in section 2 of the Public Service Management Act (as revised), means a person employed by a civil service entity or an employee of a statutory authority or government company;

“public service”, as defined in section 2 of the Public Service Management Act (as revised), means the civil service and employees of statutory authorities and government companies.

- 2.2 The Cabinet, assisted by the Cabinet Office shall carry out a review of the Cabinet Manual every three years and consider any amendments to the guidance contained herein.

The Governor

Office of Governor *(Constitution section 29)*

3. The Governor is the local representative of Her Majesty and is accountable to the Secretary of State for the good governance of the Territory in accordance with the Constitution, the Laws applicable to the Territory and such instructions as may be given by Her Majesty The Queen through a Secretary of State.

Functions of the Governor *(Constitution section 31)*

- 4.1 The Governor shall have such functions as are prescribed by the Constitution and any other law, and such other functions as Her Majesty may from time to time be pleased to assign to the Governor in exercise of the Royal prerogative.
- 4.2 The Governor shall exercise the Governor’s functions in accordance with the Constitution and any other law and, subject thereto, in accordance with such instructions (if any) as may be addressed to the Governor by or on behalf of Her Majesty.
- 4.3 In the exercise of the Governor’s functions under paragraph 4.2 the Governor shall endeavour to promote good governance and to act in the best interests of the Cayman Islands so far as such interests are consistent with the interests of the United Kingdom.
- 4.4 Notwithstanding the jurisdiction of the courts in respect of functions exercised by the Governor, the question of whether or not the Governor has in any matter complied with any instructions addressed to the Governor by or on behalf of Her Majesty shall not be inquired into in any court.

Exercise of the Governor's functions

(Constitution section 32)

- 5.1 Subject to paragraph 5.2, the Governor shall consult with the Cabinet in the exercise of all functions conferred on the Governor by the Constitution or any other law, insofar as it is reasonably practicable to do so and unless the matter is not materially significant such as to require consultation.
- 5.2 The Governor shall not be obliged to consult with the Cabinet in the exercise of —
 - a. any function conferred by the Constitution which the Governor is empowered to exercise in the Governor's discretion or judgement or in pursuance of instructions addressed to the Governor by or on behalf of Her Majesty;
 - b. any function conferred by the Constitution or any other law which the Governor is empowered or directed, either expressly or by necessary implication, to exercise without consulting the Cabinet or to exercise on the recommendation or advice of, or after consultation with, any person or authority other than the Cabinet.
- 5.3 The Governor shall keep the Cabinet informed concerning the general conduct of all matters for which the Governor is responsible, and of any matters that in the Governor's judgement may involve the economic or financial interests of the Cayman Islands or the enactment of laws under the Constitution.
- 5.4 Where the Governor is by the Constitution or any other lawful authority directed to exercise any function after consultation with any person or authority other than the Cabinet, the Governor shall not be obliged to exercise that function in accordance with the advice of that person or authority.
- 5.5 Before exercising any function with respect to any matter mentioned in section 55(1)(a), (b) or (c) of the Constitution, the Governor shall consult the Cabinet.
- 5.6 For the avoidance of doubt, the Governor may act against any advice received from the Cabinet under paragraph 5.5.
- 5.7 The Governor is not obliged to consult the Cabinet concerning any function with respect to any matter mentioned in section 55(1) (a), (b) or (c) of the Constitution in any case in which the Governor considers, acting in his or her discretion, —
 - a. it is in the public interest that the Governor should act without consulting the Cabinet;
 - b. the matters to be decided are too trivial to require the advice of the Cabinet; or
 - c. the matters to be decided are too urgent to allow the Governor obtaining the advice of the Cabinet by the time within which the Governor considers it may be necessary for the Governor to act.
- 5.8 The Governor is not obliged to consult the Cabinet with respect to any matter mentioned in section 55(1)(d) of the Constitution.
- 5.9 When the Governor acts in accordance with paragraph 5(7), the Governor shall, as soon as reasonably practicable thereafter, inform the Cabinet.

The Governor may act contrary to the advice of the Cabinet

(Constitution section 33)

- 6.1 Subject to paragraph 5.7, in any case where the Governor is required to consult with the Cabinet, the Governor shall act in accordance with the advice given to the Governor by the Cabinet.
- 6.2 The Governor may act against the advice given by the Cabinet —
 - a. if the Governor is instructed to do so by Her Majesty through a Secretary of State; or
 - b. if, in the Governor's judgement, such advice would adversely affect any of the special responsibilities of the Governor set out in section 55 of the Constitution.
- 6.3 Whenever the Governor acts otherwise than in accordance with the advice given by the Cabinet, that Governor's reasons shall be recorded in the minutes, and any member may require that there be recorded in the minutes the grounds of any advice or opinion which that member may have given on the question.

Governor's special responsibilities

(Constitution section 55)

7. The Governor is responsible for the conduct, subject to the Constitution and any other law, of any business of the Government with respect to the following matters —
 - a. defence;
 - b. external affairs, subject to section 55(3) and 55(4) of the Constitution;
 - c. internal security including the police, without prejudice to section 58 of the Constitution;
 - d. the appointment (including the appointment on promotion or transfer, appointment on contract and appointment to act in an office) of any person to any public office, the suspension, termination of employment, dismissal or retirement of any public officer or taking of disciplinary action in respect of such an officer, the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, leave, passages and pensions) for which financial provision has been made, and the organisation of the public service to the extent that it does not involve new financial provision.

Powers to dispose of land *(Constitution section 38)*

8. Subject to the Governor (Vesting of Lands) Act (as revised), the Governor or any person duly authorised by the Governor in writing under the Governor's hand may, in Her Majesty's name and on Her Majesty's behalf, make and execute under the public seal grants and dispositions of any land or other immovable property within the Cayman Islands that may be lawfully granted or disposed of by Her Majesty.

The Cabinet

The Cabinet *(Constitution section 44)*

- 9.1 The Cabinet is established by section 44(1) of the Constitution. The Cabinet is the ultimate decision-making body of government. The purpose of Cabinet is to provide a framework for Ministers to consider and make collective decisions on policy issues.
- 9.2 The Cabinet shall have the responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of government except those matters for which the Governor has special responsibility under section 55 of the Constitution. The Government shall be collectively responsible to the Parliament for such policies and their implementation.
- 9.3 For the avoidance of doubt, the Cabinet possesses autonomous and exclusive capacity in domestic affairs for any matter that is not one of the following, —
- a special responsibility of the Governor under section 55(1) of the Constitution;
 - a function which the Governor must exercise under the Constitution or any other law in the Governor's discretion or judgement, or in accordance with instructions from Her Majesty through a Secretary of State; or
 - a function which the Governor is empowered or directed, either expressly or by necessary implication, to exercise without consulting with the Cabinet, or to exercise on the recommendation or advice of, or after consultation with, any person or authority other than the Cabinet.
- 9.4 Subject to the Constitution, the Cabinet shall determine its own procedures for the conduct of its business.

Membership *(Constitution section 44)*

- 10.1 The Cabinet consists of —
- a Premier;
 - a Deputy Premier;
 - six other Ministers; and
 - the Deputy Governor and the Attorney General, as ex officio and non-voting members.
- 10.2 The number of Ministers referred to in paragraph 10.1 may be increased by a law made pursuant to section 60(2) of the Constitution which increases the number of elected members of the Parliament; in no circumstances may the number of Ministers exceed two-fifths plus one of the total number of elected members of the Parliament.
- 10.3 Under the authority of the Cabinet Secretary, the Clerk to the Cabinet, who attends all meetings, but is not a member, is to provide administrative and secretarial support to the Cabinet.

Appointment of the Deputy Governor

(Constitution section 34)

- 11.1 The Deputy Governor is designated by Her Majesty by instructions given through a Secretary of State and holds office during Her Majesty's pleasure.
- 11.2 A person shall not be designated as Deputy Governor unless that person —
- is a Caymanian; and
 - holds or has held a senior position in the public service and is still eligible to hold public office.

Functions of Deputy Governor

(Constitution section 34)

- 12.1 The Deputy Governor shall have such functions as (subject to the Constitution and any other law) may be delegated to the Deputy Governor by the Governor, acting in the Governor's discretion.
- 12.2 Under the authority of the Governor, the Deputy Governor shall be the head of the civil service.
- 12.3 The Deputy Governor, in addition to answering for matters related to the civil service, will answer in the Cabinet for matters assigned to the Deputy Governor by the Governor under section 34 of the Constitution.

Appointment of Attorney General

(Constitution section 54)

- 13.1 The Attorney General is appointed by the Governor acting in accordance with section 106 of the Constitution.

Functions of Attorney General

(Constitution section 54)

- 14.1 The Attorney General is the principal legal adviser to the Government and the Parliament.
- 14.2 In addition to the Attorney General's primary function as Government's principal legal adviser, the office holder will answer for business concerning the legal profession, technical aspects of legislation, and matters concerning the judiciary, the courts, as well as the Office of the Director of Public Prosecutions.

The Cabinet Office *(Constitution section 48)*

- 15.1 There shall be —
- Cabinet Office, which shall be an office in the Government; and
 - a Cabinet Secretary, whose office shall be a public office, who shall be a person who is a Caymanian and who shall be appointed by the Governor, acting after consultation with the Premier.
- 15.2 The Cabinet Secretary shall have charge of the Cabinet Office.

Functions of the Cabinet Secretary

(Constitution section 48)

16.1 The responsibilities of the Cabinet Secretary shall include —

- a. providing frank and politically neutral advice to the Governor, the Cabinet and the Premier on matters of policy;
- b. co-ordinating the development and implementation of policy between departments and ministerial portfolios and across the wider Government sector to ensure that Government policy is developed coherently;
- c. providing for administrative and secretarial support for the Cabinet and the Premier in order to allow high-quality and effective government;
- d. arranging the business for, and keeping the minutes of, the meetings of the Cabinet or any Cabinet committee and conveying the conclusions reached at the meetings to the appropriate person or authority;
- e. ensure that the Ministerial Code of Conduct is complied with, including establishing procedures for the obligations such as the Register of Gifts;

and the Cabinet Secretary shall have such other functions as the Governor, acting after consultation with the Premier, may from time to time direct.

16.2 The Cabinet Secretary shall also —

- a. consult the Governor and the Premier in the preparation of the agenda for Cabinet meetings;
- b. examine all documentation submitted for presentation to the Cabinet to ensure that they conform to the accepted form and are accompanied by the necessary documentation, and to refer to the Governor and the Premier when necessary;
- c. transmit copies of all papers submitted for consideration by the Cabinet or any Cabinet committee to the Governor and all members;
- d. inform the Governor and all members of the summoning of any meeting of the Cabinet or any Cabinet committee and of the matters to be discussed at any meeting of the Cabinet or any Cabinet committee;
- e. furnish the Governor and all members, as soon as practicable after each meeting of the Cabinet or any Cabinet committee, with a copy of the confirmed minutes of the previous meeting showing the matters discussed and the conclusions reached at the meeting; and
- f. monitor the implementation of all decisions taken by the Cabinet and provide a report to the Cabinet whenever requested on the implementation status of those decisions;

16.3 The functions of the Cabinet Secretary under paragraph 16.2 may be exercised by the Cabinet Secretary in person or by public officers subordinate to the Cabinet Secretary acting in accordance with the Cabinet Secretary's general or specific instructions.

16.4 The Cabinet Secretary is accountable to the Governor and the Premier and is responsible for ensuring that the standards and requirements detailed in this Cabinet Manual are met by all agencies.

Functions of the Clerk of the Cabinet

17.1 In preparation for Cabinet meetings the Clerk is required to ensure that —

- a. the Agenda and all relevant Papers and documentation from Ministries or Portfolios are circulated to members of the Cabinet in good time for the meeting, provided that they are sent to the Cabinet Office in good time; and
- b. reference papers and documents are ready to hand.

17.2 At all meetings of the Cabinet it is the duty of the Clerk to record all decisions, and to provide the necessary reference documents as needed, which should be sent to the Cabinet Office by the Ministry or Portfolio responsible prior to the meeting.

17.3 It is the responsibility of the Clerk, after each Cabinet meeting, to convey the decisions of the Cabinet to the appropriate members and Chief Officers who will initiate action on them.

17.4 The Clerk is also expected to —

- a. ensure that arrangements for the security and confidentiality of Cabinet documents and business are adequate;
- b. ensure and record the return of all Cabinet documents by Ministers when they cease to be Ministers;
- c. index properly all decisions and maintain all books and records for the efficient conduct of Cabinet business; and
- d. certify under the Clerk's hand all subsidiary legislation including rules, orders and regulations made by the Cabinet.

Cabinet Decision-making

Executive Authority (Constitution section 43)

18.1 The executive authority of the Cayman Islands is vested in Her Majesty.

18.2 Subject to the Constitution, the executive authority of the Cayman Islands shall be exercised on behalf of Her Majesty by the Government, consisting of the Governor as Her Majesty's representative and the Cabinet, either directly or through public officers.

18.3 Decisions of Cabinet may be subject to legal challenge. Accordingly, all decisions taken by Cabinet ought to be supported by proper reasons. All decisions and acts of public officials must be lawful, rational, proportionate, and procedurally fair. Every person whose interests have been adversely affected by such a decision or act has the right to request and be given reasons for that act or decision.

Items for consideration by the Cabinet

19.1 As a general rule, members should put before the other Cabinet members for consideration, issues on which they themselves would wish to be consulted. Members should keep other Cabinet members fully informed about matters of public interest, importance, or controversy. Where there is uncertainty about the level and type of consideration needed, members should seek advice from the Governor, Premier or the Cabinet Secretary. Similarly, departments should seek advice from the relevant Ministry, Portfolio or the Cabinet Office.

19.2 The following matters must be submitted to the Cabinet —

- a. where a power is conferred on the Cabinet under the Constitution or other legislation;
- b. where the Cabinet is designated as an appellate body by legislation [e.g. *appeals from decisions under the Firearms Act (as revised)*];
- c. where the Governor, in the Governor's discretion, wishes to consult the Cabinet on matters affecting the Governor's special responsibilities (e.g. *defense, external affairs, or giving approval to international agreements*);
- d. significant policy issues;
- e. potentially controversial matters;
- f. proposals that affect the government's financial position;
- g. where the Minister of Finance seeks the endorsement of the Cabinet of financial, fiscal, and developmental measures which the Minister of Finance proposes (e.g. *new revenue measures, changes in expenditure, preparation of the annual estimates, supplementary provisions during the year, approval of development plans or projects, and duty waivers*);
- h. where there are significant organisational proposals made for the civil service;
- i. discussion and public consultation documents (*before release*);
- j. reports of a substantive nature relating to government policy or government agencies;
- k. proposals involving new or amended legislation or regulations;
- l. matters concerning the Ministry/Portfolio interests of a number of members (*particularly where agreement has not been reached*);
- m. where a subject is such that it does not fit neatly into one Ministry or Portfolio and a member does not consider that he or she can properly deal with it without the support of other members;
- n. significant statutory decisions;
- o. all public appointments to boards as prescribed by the relevant legislation;
- p. agreements, memoranda of understanding, international treaties and conventions;

q. any proposal to amend the provisions of the Cabinet Manual.

19.3 The following matters should not, as a general rule, be brought to the Cabinet —

- a. matters concerning the day-to-day management of a Ministry or Portfolio that have been delegated to a Ministry or Portfolio;
- b. operational (*non-policy*) statutory functions;
- c. the exercise of statutory decision-making powers (*within existing policy*).

19.4 It may, nonetheless, be appropriate to bring a matter from the list in 19.3 to the Cabinet's attention if it is significant or likely to be controversial.

19.5 All public appointments referenced in 19.2.o. are subject to a vetting process to advise Ministers of the suitability of the nominees.

Collective Responsibility *(Constitution section 54(5))*

20.1 The Cabinet system of Government is based on the principle of collective responsibility. Ministers shall be collectively responsible to the Parliament with respect to any matter for which a Minister is responsible under paragraph 81.1. All Ministers are bound by the collective decision of the Cabinet and carry joint responsibility for all Government's policies and decision.

20.2 The basic requirement for the successful operation of the Constitution is that all members should work together in unity as a team. The first duty of all members is to play a full part in reaching the decisions on policy matters which only the Cabinet can take. All members are collectively responsible for all decisions taken by the Cabinet. This principle of collective responsibility is vital to the success and effectiveness of the system of Ministerial government. Matters will be fully discussed in Cabinet meetings, but will usually not be put to the vote. All members have not only full liberty but a clear duty at meetings of the Cabinet to speak in support of or against any proposal before the Cabinet. If consensus of all Ministers cannot be reached initially it may be necessary for further discussions to take place until either full agreement is reached on the substance of the matter or else the dissentient(s) agree to accept and support the decision of the Cabinet as a whole, even though they may continue to be strongly opposed to it personally. A Minister who is not able to accept and support a decision taken by the Cabinet has only one option, which is to resign. Otherwise, each and every member of the Cabinet is bound to support the Cabinet's decision in the Parliament and elsewhere, and to accept responsibility for it, once the Cabinet has made the decision. It is convention that dissent is not recorded in the Cabinet Minutes.

Right to dissent

21.1 Except as set out in paragraph 21.2, no member may speak in public or in private against a decision of the Cabinet or against an individual decision of another member. In the Parliament no member may speak or vote on any measure otherwise than along the lines agreed in the Cabinet. Members should avoid, in the Parliament or in public speeches, committing the Government to any course of action except in accordance with the policy of the Cabinet.

Divergence of Departmental or other Agency Views

22.2 Once a decision is reached by the Cabinet, particularly on a matter on which agencies hold differing views, both officials and members need to take care when making comments or statements about the matter in the public arena. Comments or statements should reflect the fact that a collective government decision has been made. Officials from departments or other agencies with policy responsibilities may be required to comment publicly (*for example, at a select committee hearing*) on the effect of a particular decision on their area of operation. It is important that such comments are shaped as factually and politically neutrally as possible.

Statutory decisions

23.1 Many statutes provide for individual members to take certain actions or make certain decisions. In each case, the member must ensure that he or she decide and fulfil such duties in a manner consistent with all relevant legislation, including giving consideration to all relevant matters and excluding from consideration all irrelevant matters. Relevant matters will vary depending on the particular statute under which the decision is to be made. If the member fails to act and decide in a manner consistent with all relevant legislation, the decision may be susceptible to legal challenge.

23.2 Members should, however, inform the Cabinet of any exercise of an individual statutory power that merits attention at the Cabinet level. Informing the Cabinet of the intended decision enables the other Cabinet members to understand the basis on which the Minister intends to make the decision, and to support that decision publicly and collectively.

23.3 Special considerations apply to protect the integrity of the relevant statutory decision-making process when a member brings an item to the Cabinet on a statutory decision or action that member intends to make. The Cabinet cannot make, or appear to make, a decision that the statute requires a member to make individually. Accordingly:

- a. a Cabinet note should be presented as an informative briefing for members in advance of a significant statutory decision;
- b. the Cabinet may provide a forum for members, including the decision-maker to comment on and provide information on the intended decision, and the decision-making member may legitimately take into account such information and comments that are relevant;
- c. the member's intended decision should be noted rather than agreed by the Cabinet.

23.4 If members are unsure about whether to take an issue concerning the exercise of a statutory power or function to the Cabinet, they should seek guidance from the Premier and/or the Cabinet Secretary.

Meetings, decorum, and use of the Cabinet Conference Room

(Constitution section 45)

24.1 The Cabinet shall be summoned whenever the Premier, or the Governor acting in that person's discretion, so requests. Upon receiving such a request, the Cabinet Secretary shall summon the Cabinet.

24.2 The Cabinet will normally meet at 10:00 a.m. on Tuesdays unless members are notified to the contrary by the Clerk.

24.3 The Clerk will give members and the Governor written notice of a meeting and the agenda at least forty-eight hours in advance and shall circulate the papers to be considered at the meeting with the notice of meeting and agenda.

24.4 Meetings may be held on days other than Tuesday for reasons of urgency or otherwise, on notification to the Cabinet Secretary by the Governor or the Premier.

24.5 Meetings will not normally be held on a day on which the Parliament is sitting unless convened under paragraph 24.4.

24.6 Meetings take precedence over all other business and Ministers should take the necessary steps to obtain permission to be absent from any meeting. The Cabinet Secretary or the Clerk should be advised if a member will be unavoidably late or wishes to be excused from part of a meeting.

24.7 In order not to disturb the proceedings of the meeting, members should ensure that messages are not sent to them during meetings unless this is absolutely necessary. Cellular phones should either be silenced or left with a member's personal assistant / secretary who can, in the event of an urgent matter arising, ask the Clerk to summon the member, in order to prevent disruption of Cabinet proceedings.

24.8 The Cabinet Conference Room is strictly intended for the use of the members.

24.9 Members may attend meetings remotely via a secure videoconferencing/teleconferencing network if permission is granted by the Premier in the case of Ministers or the Governor in the case of Official Members.

Presiding (Constitution section 46 (1) and (2))

25.1 The Governor, in accordance with section 46 of the Constitution, retains the formal power and responsibility for presiding over and chairing Cabinet. The Governor shall, so far as practicable, attend and preside at meetings of the Cabinet. For the efficient conduct of a meeting and in recognition of the important responsibilities held by the Premier and Ministers, the Governor, acting in the Governor's discretion, may authorise the Premier to lead discussion through a portion of the agenda, as specified by the Governor, save for matters that fall under the special responsibilities of the Governor.

25.2 In the absence of the Governor from any meeting of the Cabinet (*and where there is no Acting Governor*) the Cabinet shall be chaired by the Premier or, in the absence of the Premier, the Deputy Premier.

Quorum (Constitution section 46 (4))

26. A quorum for any meeting of the Cabinet is a majority of Ministers (*including the Premier*).

Validity of proceedings (Constitution section 46(5))

27. Subject to paragraph 26, the Cabinet shall not be disqualified for the transaction of business by reason of any vacancy in its membership (including any vacancy not filled when the Cabinet is first constituted or is reconstituted at any time) and the validity of the transaction of business in the Cabinet shall not be affected by reason only of the fact that some person who was not entitled to do so took part in the proceedings.

Deferral when elected Ministers in minority

28. If at any Cabinet meeting a quorum is not present, the person presiding at the meeting shall adjourn the meeting and defer for later consideration any matter on the Agenda.

Preparing and submitting Cabinet Papers

- 29.1 Papers are submitted to the Cabinet to enable Ministers to make collective decisions based on sound information. Good papers reflect sound policy development and consultation processes, and are succinct yet sufficiently comprehensive to provide Ministers with all the information they need to reach an informed decision.
- 29.2 Members submit papers to the Cabinet on issues concerning their own Ministries or Portfolios. All papers presented to the Cabinet should be signed by the relevant member. If necessary and with express permission, however, any member can sign a Cabinet paper on behalf of another. Members are responsible for the papers they submit to the Cabinet and are expected to be fully conversant with them.
- 29.3 The Cabinet Office sets standards and provides guidance for the quality, preparation, and submission of papers for the Cabinet. These standards are published and reviewed periodically by the Cabinet Office.

Deadlines and urgent papers

- 30.1 Papers must be submitted to the Cabinet Office at least ten business days prior to the meeting in which they will be considered.
- 30.2 Papers received after the deadline in paragraph 30.1 will not be included on the agenda for the next meeting nor circulated for consideration by members at such meeting unless the prior written permission has been granted by the Governor or the Premier. Generally, approval will be given by the Governor or the Premier only where there is a clear case of urgency which will not allow deferral of the paper to the next Cabinet meeting. The Governor or Premier will notify both the member concerned and the Cabinet Secretary of the decision on the proposed urgent Cabinet paper. The Cabinet Secretary is unable to include a proposed urgent paper on the Cabinet agenda until such notification is received from the Governor or Premier.
- 30.3 A written request for inclusion of an urgent paper on the agenda should be submitted to the Clerk by the member submitting the paper and the Clerk will then seek approval for inclusion of the urgent submission on behalf of the member.

Despatch of Papers

31. The Clerk will arrange circulation of the agenda and accompanying papers to the Governor and members by 2:30pm on the Friday preceding the Cabinet meeting.

Amendments to Papers

- 32.1 Amendments to Cabinet papers already logged with the Cabinet Office will not be accepted unless the change is of a minor editorial nature. If a member wishes to make substantive amendments to a paper that member has already submitted, the usual practice is to withdraw the original paper and submit a new one.
- 32.2 The Cabinet Office will not accept changes suggested by one member to another member's paper before a meeting. The member should suggest any proposed changes during the meeting in which the paper is being considered.

Withdrawal of papers

- 33.1 Once the Cabinet Office has issued an agenda, a paper can be withdrawn or deferred only at the meeting for which it was prepared. The member who signed the paper should provide notice of withdrawal as soon as possible, so that the person presiding over the meeting can be informed.
- 33.2 It should be noted that, after the introduction of a Paper by a member in a Cabinet Meeting, it may only be withdrawn by permission of the Governor or the Premier. It is not permissible for the member to withdraw a Paper if the consensus of opinion differs from the original recommendation. Once having introduced a Paper, a member must accept the advice of Cabinet on that member's proposals. A Paper may sometimes be deferred for further consideration by stakeholders outside the Cabinet body, or the further eliciting of facts felt necessary by members for the correct decision to be made, but again deferral can only be with the specific approval of the Governor or the Premier.

Agendas (Constitution section 46(3))

- 34.1 The Governor and the Premier shall together set the agenda for every meeting of the Cabinet, and each shall be entitled to inscribe items on the agenda.
- 34.2 The Cabinet Office compiles the agendas for the Cabinet on behalf of the Governor and the Premier.

Oral Items

- 35.1 An oral submission is one which is provided to the Cabinet by a member without prior circulation of a written submission. Accordingly, there is no formal submission process to be followed. Oral submissions may only be given at Cabinet meetings where there is an emergent issue of material significance, and generally where there is insufficient time to prepare a written submission on the issue. As Ministers will not have had the opportunity to be informed prior to the meeting, complex matters requiring detailed deliberation should not be presented, unless there is no other option.

35.2 A member may make an oral submission only if the Governor or Premier has given prior approval. Such approval will be decided on the merits and urgency of the issue, which must support dispensation of the normal pre-Cabinet consultation process. Where an approval of an oral submission is being sought, or has been received, the Cabinet Secretary should be advised so that appropriate arrangements in respect of the Cabinet agenda and minutes can be made. Except with the consent of the Governor or the Premier, matters discussed will be limited to items listed on the agenda. Such consent will normally be given only where the matter is exceptionally urgent, and the Cabinet would not normally be expected to make a decision on policy on a subject raised orally. Unless it has resulted in a decision being made, a record of any matter raised orally is only kept by the Clerk if the person raising it specifically so requests and the Governor or the Premier agrees.

Cabinet documents

36.1 Cabinet documents consist of —

- a. the agenda;
- b. papers (including drafts) and attachments;
- c. notes;
- d. audio-visual presentations;
- e. minutes; and
- f. extracts from minutes.

Any other business

37. Upon the completion of the formal agenda, the Chair will normally invite all Members to raise matters under Any Other Business. This provides Cabinet with an opportunity to provide updates on current issues, raise questions and concerns. The Clerk will normally maintain a minute of matters raised under any other business unless requested not to do so.

Minutes approved by Cabinet

38. An agenda for a Cabinet Meeting will include an item for "Confirmation of Minutes". A member who was at the previous meeting may, at the subsequent meeting, request the Clerk to issue an amendment to the minutes which, in case of doubt, will be referred to the Cabinet. However, this will not include making a change to the initial decision. After the confirmation of the minutes has been obtained the Governor or the person who presided at the meeting concerned will approve the extracts for circulation as soon as possible after the meeting.

Referral back

39. If the Cabinet has decided a matter, and the member responsible finds that because the circumstances have changed or new facts have emerged it is impracticable to carry out the decision, that member should refer the matter back to the Cabinet in a paper. If only a minor variation is necessary that member should consult the Governor or Premier whether to go ahead or refer once more to the Cabinet, and if that member goes ahead the Cabinet should

be informed by a note which outlines the change that occurred subsequent to the original decision of Cabinet.

Advice to Governor *(Constitution sections 32 and 33)*

40. Sections 32 and 33 of the Constitution contemplates that in certain circumstances the Cabinet may have to provide advice to the Governor, who normally accepts and acts on that advice except where the Constitution provides to the contrary. Cabinet discussions therefore have to be formally recorded as resulting in "advice", but they can ordinarily be described simply as "decisions" throughout this Cabinet Manual.

Clear decisions essential and cataloguing of policy decisions

41.1 It is the business of the Cabinet to make decisions for action. These decisions will be the decisions of the Government and need to be clear and precise so that those who have to act on them know exactly what to do. Where action is required the decision should place the responsibility on the member, department or individual who is to carry it out. The aim in the production of decisions should be to have them prepared and distributed as quickly as possible after a meeting. This is because, firstly, there may be occasions when immediate action is needed on some items and this cannot be taken until the decisions are circulated and extracts made. Secondly, it is desirable that members should have the opportunity of verifying the correctness of the record while their memories are still fresh.

41.2 Should a member desire to take immediate action on any Cabinet decision, expedited extracts by the Cabinet Office may be requested by the member from the presiding member during the applicable meeting.

Recording of Minutes

42. It is the duty of the Clerk, under the direction of the Cabinet Secretary, to clarify as well as to record the decisions of the meeting. The recorded minutes, including the decisions reached, should not in any way be in the form of a verbatim record. The Clerk in drafting the minutes should avoid, as far as possible, any reference to opinions expressed by individuals unless there is a specific request by an individual who has expressed an opinion that this be done, and should record in as precise a form as possible the decisions reached. The minutes are to set out the essence of the discussion which leads to the decision only if that should be necessary for clarity or for future reference.

Action on Minutes

43.1 When the minutes have been approved, the Clerk is responsible for distributing extracts of the decisions reached to the member and Chief Officer of the responsible Ministry or Portfolio for action on it. The Chief Officer to whom the extract is addressed is responsible for the transmission of the relevant information contained in the extract to relevant departments, boards, statutory authorities etc., and is responsible for putting the decision into effect (e.g. *Gazette Notice, reply to an applicant, issue of a licence, etc.*).

43.2 The Clerk is also responsible for distributing extracts of the decisions reached to the Deputy Chief Officer (Policy Coordination) within the Cabinet Office for the purpose of monitoring the implementation of government policy.

Attendance of persons at meetings

(Constitution section 47)

44.1 The Cabinet Secretary and the Clerk, who provide secretariat services to the Cabinet, are the only public officers required to attend each Cabinet meeting. Occasionally other public officers may be summoned to give a special presentation to the members. Additionally, any person may be invited to a meeting of the Cabinet whenever the business before the Cabinet renders their presence desirable.

44.2 The person presiding over any meeting of the Cabinet may summon any public officer or invite any other person to a meeting of the Cabinet whenever the business before the Cabinet renders the presence of that officer or other person desirable. If the presence of any person summoned or invited under paragraph 44.1 is objected to by any member of the Cabinet, the person shall only attend the meeting to which that person has been summoned or invited with the agreement of the Cabinet.

Where an electoral district is not represented in the Cabinet, the elected member or members of the Parliament representing that district shall be entitled to attend a meeting convened by the Cabinet once every three months for the purpose of making representations with respect to —

- a. matters affecting their district; and
- b. making budgetary representations when the Annual Plan and Estimates are being developed.

44.4 Requests from members of the Parliament to attend a Cabinet meeting under the circumstances described under paragraph 44.3 should be sent to the Cabinet Secretary who shall notify the Governor and the Premier of the request. Once a date for the meeting has been determined by the Governor and the Premier, the Cabinet Secretary will issue the invitation to the relevant member of the Parliament.

Paper presented for absent member

45. If a member wishes the Cabinet to consider a matter falling within that member's Ministry or Portfolio during that member's absence, that member should arrange with another member to lead discussion on that member's behalf. A paper submitted by a member will not normally be discussed in that member's absence unless that member has made such an arrangement to have the paper presented by another member. Chief Officers to Ministries or Portfolios are not members and cannot therefore be asked to deputise for their Minister. As with other public officers, they can be summoned to a meeting for a particular item of business, but this should be the exception, not the rule.

Paper by member without responsibility for subject

46. A member without specific ministerial responsibility for a subject may present a paper to the Cabinet for decision provided that member has first asked the responsible member, in writing, to

submit one, and that member has either refused or failed to do so within a reasonable time. The purpose of this provision is to prevent a member, whose Ministry or Portfolio contains subjects on which that member's own personal views differ strongly from the majority of the members of Cabinet from frustrating the work of Government by persistently failing to bring a paper on any particular matter before the Cabinet. Under these circumstances another member could, after consultation with the Premier, where that member is not the Premier initiate discussions on a specific policy if that member thought it proper to do so, although this may possibly be against the wishes of the Ministry/Portfolio-holding member. If this were to be the case, the member bringing the paper could not use the civil servants in the Ministry/Portfolio-holding Ministry or Portfolio to help in the paper's preparation, but must cause it to be prepared from within the resources of that member's own Ministry or Portfolio.

Government Spending

47.1 Government spending must always be based on statutory authority. The government must have authority from the Parliament to spend money before expenditure is incurred. This means that Ministries and Portfolios should check that proposed spending has been authorised by either —

- a. an appropriations law; or
- b. a Cabinet extract authorising executive expenses or capital expenditure to be met in accordance with the Public Management Finance Act.

Constitutional issues and the Cabinet

48. Any proposal that has the potential to impact the Cayman Islands' constitutional arrangement must be submitted to the Cabinet. Where significant constitutional change is contemplated, issues of process and appropriate public participation must be clearly and fully addressed in the Cabinet paper.

International Treaties and the Cabinet

(Constitution section 55)

49.1 The Governor shall not enter, agree or give final approval to any international agreement, treaty or instrument that would affect the internal policy or require implementation by legislation in the Cayman Islands without first obtaining the agreement of the Cabinet, unless instructed otherwise by a Secretary of State.

49.2 In the event that a Minister has been delegated, in accordance with section 55 of the Constitution, responsibility for the conduct of external affairs in so far as they relate to any matters falling within that Minister's Ministry, the terms and conditions that apply to that delegation are as follows —

- a. separate authority shall be required from or on behalf of a Secretary of State for the commencement of formal negotiation and the conclusion of any treaty or other international agreement by the Government; and
- b. no political declaration, understanding or arrangement in the field of foreign policy shall be signed or supported in the name of the Government without the prior approval of a Secretary of State.

Cabinet and Ministers' decision making before an election

50.1 Before a general election there is a period of election sensitivity from the dissolution of the Parliament until the swearing in of a new Government, during which it may be difficult for the Cabinet and Ministers to take decisions. This period of sensitivity is usually characterised by reduced decision-making capacity at the ministerial and the Cabinet level, while Ministers are occupied with the election campaign.

50.2 An additional practical consideration is to avoid making major financial commitments after the publication of the pre-election economic and financial update in the gazette, which the Financial Secretary is required to prepare under the Public Management and Finance Act.

50.3 Special arrangements should apply in the period immediately before a general election, in recognition of the considerations that –

- a. with the dissolution of the Parliament, there is no Parliament to which the Executive is collectively responsible; and
- b. every general election brings with it the possibility of a change of government.

50.4 As a general rule the Cabinet should avoid, whenever possible, making appointments of significance during the period of sensitivity. Factors in deciding whether or not a particular appointment is significant include the degree to which it may be a matter of disagreement between the major parties contesting the election, as well as the position's inherent importance.

50.5 As a rule, significant appointments by the Cabinet dated to commence after polling day would not be made during the period of sensitivity.

50.6 Where it is necessary for a significant appointment to be made during the period of sensitivity, usually for reasons associated with the proper function of the agency concerned, there are several options available, such as –

- a. provisions for an acting appointment, where available, are used to avoid the need for a substantive appointment; or
- a. provisions for a short-term appointment, normally a duration of up to three months is made.

50.7 The broad rule is that government should avoid implementing new policies, or entering into major contracts or undertakings, during the period of sensitivity. This includes commitments which could bind an incoming government. Major contracts or undertakings should not only be considered in terms of their monetary commitment, but should also take into account other relevant factors such as the nature of the undertaking and the level of bipartisan support.

50.8 Consistent with this requirement, major project approvals within government programmes are normally deferred by Ministers during the period of election sensitivity.

50.9 Adherence to the conventions and practices (*which have no formal legal standing*) is ultimately the responsibility of the Premier. Where Ministers are in doubt about a particular matter, they should raise it with the Governor, Premier or the Cabinet Secretary.

Consultation

Ministerial and Portfolio consultation

51.1 Members are expected to consult relevant Cabinet members before submitting papers that affect other members' Ministry or Portfolio interests.

51.2 The Cabinet Office will not accept Cabinet papers where the relevant Cabinet member has not been consulted prior to submission.

Political consultation

52.1 Caucus is an effective and useful mechanism for political consultation. Where the government is made up of groupings and independent members, Caucus serves as the appropriate medium through which policy consensus of the elected government ought to be reached. Caucus is not an approval body, but serves to, among other things, provide recommendations on matters to the Cabinet. Final decisions are made by the Cabinet.

52.2 Careful planning, good faith, and a “no surprises” approach are key to making the arrangements work effectively. All Ministers and Chief Officers need to be familiar with the relevant arrangements and ensure that they have processes in place to support them. Managing the internal political consultation process is essential to the proper functioning of the Cabinet. Ministers and officials should factor the time required for consultation into their planning.

Legal consultation

53.3 When a matter arises for a decision by the Cabinet, and it obviously or probably requires legal advice (*e.g. the decision requires complex statutory interpretation or contains legislative, human rights or other Constitutional implications*), it should be referred to the Attorney General for such advice before being put forward. It should be recognised that the provision of that advice may require research and careful consideration. Therefore, sufficient time should be allowed for the Attorney General to discharge the Attorney General's responsibilities properly. The written advice thus given should be incorporated into the Paper concerned.

Departmental consultation

54. Almost all policy proposals have implications for other government agencies. The initiating Ministry with policy responsibility and the member must ensure that all other agencies affected by a proposal are consulted at the earliest possible stage, and that their views are reflected accurately in the paper. Consultation may sometimes be needed with agencies that have an advisory role (*e.g. the Constitutional Commission*).

Pre-Cabinet Meeting

55. The Governor, acting in his or her discretion, may from time to time convene a pre-Cabinet meeting with the ex officio Members. The pre-Cabinet meeting provides the Governor with an opportunity to discuss and exchange views on items on the agenda for the upcoming Cabinet meeting.

Cabinet Confidentiality

Obligation of confidentiality

56.1 On taking up office for the first time, whether after a general election or appointment each member is required to take, in addition to the Oath of Allegiance and the Oath for due execution of office, the Oath of a Cabinet Member (*Appendix A*) which includes the undertaking not to reveal directly or indirectly such matters as shall be debated in Cabinet meetings and committed to the members' care. Such oaths shall also be taken by the Cabinet Secretary, the Clerk and by an acting or temporary member at the first meeting of Cabinet after that person has been appointed to act. An Oath of confidentiality, couched in similar terms to that of a Cabinet Member, shall be taken by all other persons in attendance at Cabinet on the first occasion in each calendar year on which they so attend.

56.2 In no circumstances may the nature of the discussion or the opinions expressed by individual members be divulged. Members of the Parliament who are not Ministers are not members of the Government and the information given to them should be strictly limited to what they need to know, however sympathetic they may be towards the aims of the Cabinet or one of its members.

Reasons for confidentiality

57.1 There are three main reasons why it is essential that confidentiality should be maintained about all matters coming before the Cabinet –

- a. outside knowledge that certain matters are being considered may give rise to undesirable speculation or may result in embarrassment to members through attempts by interested parties to influence them. In addition, of course, some subjects must be kept secret as premature disclosure could prejudice the issue or give an unfair advantage to some persons (*eg. in matters of high policy or of fiscal measures*);
- b. to allow members to freely express their views at meetings of the Cabinet. This freedom of members to express themselves in the Cabinet meetings without fear that individual opinions put forward may become public knowledge, whether sooner or later, is essential if the Cabinet is to function efficiently; and
- c. so that the principle of collective responsibility can be observed.

57.2 A member may have argued for or against a particular line of action in the Cabinet meeting, but once a decision has been reached that member must support that decision in public. Any risks of disclosure of what had occurred at the Cabinet meeting would greatly undermine this convention. It follows from this that it would be wrong for a member to claim or disclaim personal responsibility for any part of a decision of the Cabinet.

Confidentiality binds after office

58. The obligation to protect the confidentiality of proceedings in the Cabinet continues to be binding after resignation of a member or the dissolution of the Government. This is important as the essential confidence between members would be destroyed if it was known that they were free to air past differences once

they were no longer members. If a member resigns and in stating the reasons for that member's resignation wishes to refer to discussions in Cabinet meetings, that member must obtain the Governor's consent before doing so. The Governor, acting after consultation with the Premier, in making a decision, would have regard to the public interest and would in no case agree to the disclosure of the views put forward by individual members.

Need to know principle

59. It follows from these principles that there must be no disclosure of the proceedings of the Cabinet, except to those who need to know the decisions taken for the performance of their official duties. Such officials are bound to protect the confidentiality of Government business under the terms of the Public Service Management Act (*as revised*). If relevant, officials are also, under the Data Protection Act (*as revised*) not permitted to disclose personal data without authorisation or consent. Any member must notify the Governor and the Premier without delay of any unauthorised disclosure of information about proceedings of the Cabinet which comes to their notice. Unauthorised disclosure of personal data constitutes a data breach and, under the Data Protection Act (*as revised*), the Ombudsman as well as the impacted data subjects(s) must be notified. Knowingly or recklessly disclosing personal data without the consent of the Cabinet as the data controller also constitutes a criminal offence under the Data Protection Act (*as revised*).

Exemptions from confidentiality

60. Confidentiality does not extend to the following –

- a. discussion of matters prior to submission to the Cabinet, or following discussion in Cabinet meetings with the Governor, the Cabinet Secretary, Chief Officers, the Clerk, Heads of Departments or other civil servants who are subject to the Public Service Code of Conduct and whose opinion must be consulted for the preparation of Cabinet documents for submission to the Cabinet, or whose knowledge is essential for the implementation of decisions or policy agreed by the Cabinet; or
- b. publication of subsidiary legislation once made by the Cabinet, introduction of Bills to the Parliament once approved for submission by the Cabinet, or dissemination of information necessary to put decisions reached by the Cabinet into effect. When a member has any doubt as to whether that member may release information that member should seek the advice of the Cabinet at the time the matter is discussed in the Cabinet meeting; or
- c. the disclosure of personal data where this is necessary for the purpose of preventing or detecting a crime or is required or authorised by or under any enactment, by any law or by the order of the Court.

Classification of documents

61. In order to protect this confidentiality, all Cabinet documents will be classified as 'Confidential', and treated accordingly, irrespective of whether their content would otherwise merit a security grading.

Custody of documents

62. To ensure that Cabinet papers, other than extracts of minutes, are adequately safeguarded the following rules for custody and destruction should be implemented in members' offices —
- a. Cabinet papers are to be kept secure at all times when they are not in use by the member or Chief Officer;
 - b. the Chief Officer will retain a secure master file, containing copies of Cabinet extracts, papers and notes concerning that Chief Officer's Ministry or Portfolio which will be available for reference, at any time, by themselves or the member. This master file will be closed at the conclusion of the Minister's term of office and while it may be retained by the Chief Officer will not be available for reference by any incoming Ministers;
 - c. members will securely retain their own files of Cabinet papers and destroy them when called upon to do so by the Clerk and must do so when that member vacates their office in accordance with approved procedures;
 - d. Cabinet papers may not be copied or duplicated and all copies will be numbered and accounted for by the Clerk who will destroy all spare copies at monthly intervals;
 - e. copies of Cabinet papers, other than extracts of minutes, will not be supplied to Heads of Departments or other public officers unless they are invited to attend Cabinet meetings, when a copy may be furnished confidentially for the purposes of discussion and returned to the Clerk before that public officer leaves the meeting.
 - f. official records of all Cabinet proceedings will be retained only by the Governor and the Clerk under security arrangements. All the Cabinet papers, other than extracts of minutes, will be sent to the Clerk at intervals of not less than three nor more than six months, who will destroy them as soon as possible after receipt; and
 - g. on certain occasions the Cabinet may be requested to consider papers classified as 'Secret'. These will be distributed by the Clerk at the meeting at which they are discussed, collected by the Clerk before the end of the meeting and all copies, other than the record copies retained by the Governor and the Clerk, destroyed by the Clerk within twenty-four hours.

Publication of decisions

- 63.1 Many decisions by Cabinet are effectively published, for example, when Bills, Regulations, Proclamations and other notices to give effect to a decision appear in the Gazette, or when press statements are issued to the press, including radio. Effective publicity at the end is as important as confidentiality during the formative stages. But it is essential that the timing and manner of publication is left to the responsible member, (unless otherwise agreed by the Cabinet as a whole) and not prejudiced or spoiled by premature disclosure by any other Cabinet member.
- 63.2 The Cabinet Office, on behalf of the Cabinet, produces on a weekly basis a post meeting summary. The draft of the post meeting summary is presented as an item on the Cabinet Agenda along

with the draft Cabinet Minutes for approval. Once approved by the Cabinet, the summary is published following confirmation of the Minutes. Only a summary of the decisions will be published. Cabinet discussions will not be disclosed. Summaries of decisions of a sensitive nature, matters of national security, those where publication breaches regional or international conventions and those relating to personal privacy will not be disclosed. Post meeting summaries will be available on www.gov.ky and the Cayman Islands Government's digital channels.

Right of Parliament members

64. Members of the Parliament who are not Ministers have no absolute right to scrutinise government files or papers, and it lies within the discretion of the Chairperson of the Finance Committee of the Parliament and of members responsible for Ministries and Portfolios to determine what documents members of the Parliament should have access to. In so determining, members should be satisfied that disclosure does not offend the spirit of paragraphs 56 to 57 and does not breach any relevant law or prejudice good governance by disclosing details of business arrangements between the government and companies, boards, authorities or individuals which would not normally be revealed to outside persons. The Governor's advice should be sought in cases of doubt.

Availability of Cabinet Documents

65. At the same time and within the restraints of paragraph 64, members should be conscious of the need to make available to members of the Parliament all documents which, without breaching confidentiality, are necessary for them to arrive at decisions on matters placed before them. Elected members of the Parliament, at the discretion of members, may be permitted to peruse, for example, franchises or contracts provided that copies are not taken and that the elected member of the Parliament gives an assurance that any information coming to that person by this means will not be publicised nor will it be used in public debates in the Parliament. The material may be used for discussion in Finance Committee, provided that the elected members make no reference to such material.

Tabling of Papers

- 66.1 All reports submitted to the Cabinet which do not contain confidential matters can be tabled in the Parliament.
- 66.2 Unless otherwise provided by any law, reports submitted to the Cabinet by the independent bodies supporting democracy shall be tabled in the Parliament at least two weeks after it has been reviewed and considered by the Cabinet, or at the next session of the Parliament if it is currently prorogued.

Access to Cabinet Documents

- 67.1 Access to Cabinet records and associated Cabinet documents is governed by strict protocols to protect the confidentiality and security of information, and the interests of current and previous governments and the Ministers involved in Cabinet decision-making, regardless of political party.

67.2 Unless otherwise required by law or court order, access may only be granted by the Cabinet Secretary based on the approved protocols, and where appropriate, an official Cabinet Secretariat copy may be produced and issued. Accordingly, all requests for access to the Cabinet record must be referred to the Cabinet Secretary in writing.

67.3 Cabinet records and associated Cabinet documents are subject to the Freedom of Information Act (*as revised*) and may be requested by any person under the terms of that Act. Where an FOI request has been made for Cabinet agendas and/or minutes, the Cabinet Office shall process the request. Where an FOI request has been made for Cabinet papers, notes, audio-visual presentations and/or extracts from minutes, the entity responsible for the relevant matter shall process the request. The initial decision on access is to be made by the Information Manager appointed for the Cabinet Office/Ministry/Portfolio (*in the case of a request regarding Cabinet agendas and/or minutes*) unless an exemption is applied that requires the decision to be taken by the Chief Officer or the Minister/Official Member, or it is otherwise determined that the Information Manager's function and power shall be delegated to another person.

Obligation for Chief Officers

68.1 Chief Officers have an obligation to ensure the security of Cabinet documents held in their care and that access is strictly enforced in accordance with governing protocols.

68.2 On vacating their office, all outgoing Chief Officers are required to ensure that all current Cabinet documents and Ministry or Portfolio files that were held in their care are available to the incoming Chief Officer, unless they have been previously archived in accordance with established procedures.

Access to past government's Cabinet documents by the present government

69. By convention, current Ministers may not have access to Cabinet documents produced by a past government of a different political party. Such documents are held in trust by the Cabinet Secretary and Cabinet Secretariat (*as holder of the official record of whole of government Cabinet documents*) and the Chief Officers of each Ministry or Portfolio (*as holders of the originals of submissions and working papers prepared by the relevant Ministry or Portfolio*).

Exemptions for access to documents of former government

70. Current Ministers may also not see other papers giving the unpublished views or comments by Ministers of a former government of a different political party or the advice submitted to them, except in the following instances —

- a. papers which, even if not publicly available can be deemed to be in the public domain;
- b. papers other than genuine personal messages dealing with matters which are known to foreign governments (*e.g. messages about inter-governmental negotiations*); and

- c. written opinions of law officers, which are essentially legal rather than political documents.

Continuity of administration

71. In providing advice to the current government, where "continuity of administration" requires reference to Cabinet documents of previous governments, it may be appropriate for Chief Officers to paraphrase the contents of those Cabinet documents subject to the following conditions —

- a. paraphrasing the documents of past governments should only apply where it is essential to explain a point of policy affecting the future operations of the Ministry;
- b. it is not appropriate to paraphrase documents concerning matters that no longer have an impact on policy or operations in the Ministry; and
- c. the extent of paraphrasing should be consistent with the principle of maintaining confidentiality of matters considered by the past government. The personal views and comments of previous Ministers or advice submitted directly to them should not be disclosed.

Application to access information from past government

72. Where Chief Officers require information for continuity of administration purposes, that has been the subject of the Cabinet's consideration by a past government of a different political party, application may be made to access the information from the official Cabinet record which is held in trust by the Cabinet Office. Applications by Chief Officers to access information from the official Cabinet record must be made to the Cabinet Secretary in writing and stipulate detailed reasons supporting the need for access.

Consent of Governor/leader of party concerned

73. An official copy of a document or release of information for a reason other than continuity of administration can only be granted with the consent of the Governor, in the case of documents submitted by Official Members, or the current leader of the party concerned, in the case of documents by Ministers. Where the Cabinet Secretary seeks this consent, the reasons provided in the written application from Chief Officers will form the basis of the request to be prepared by the Cabinet Secretary. The Governor or the present leader of the party has the right of prerogative to grant or deny access.

Unauthorised disclosure

74. Any unauthorised disclosure of information which is confidential to members should be reported to the Attorney-General who is authorised to investigate and report to the Governor.

Appointment and Role of Ministers

Appointment of Premier *(Constitution section 49)*

75. The Premier shall be appointed by the Governor as follows —
- a. Where a political party gains a majority of the seats of elected members of the Parliament, the Governor shall appoint as Premier the elected member of the Parliament recommended by a majority of the elected members who are members of that party.
 - b. If no political party gains such a majority, or if no recommendation is made under paragraph 75(a), the Speaker shall cause a ballot to be held among the elected members of the Parliament to determine which elected member commands the support of the majority of such members, and shall record the vote of each member voting; and, where such a ballot is held, the Governor shall appoint as Premier the elected member who obtains a majority of the votes of the elected members.
 - c. Notwithstanding sections 75(a) and 75(b), the Governor shall not appoint as Premier a person who has held office as Premier during two consecutive parliamentary terms unless at least one parliamentary term has expired since that person last held that office; and for the purposes of this paragraph a parliamentary term shall be deemed to be a period commencing when the Parliament first meets after being constituted under the Constitution or after its dissolution at any time, and terminating when the Parliament is next dissolved.

Functions of the Premier *(Constitution section 50)*

- 76.1 The Premier shall have such functions as are conferred on the Premier by or under the Constitution, and shall exercise those functions in accordance with the Constitution and any other law and in the best interests of the Cayman Islands.
- 76.2 The Governor and the Premier shall confer on a regular basis and the Premier shall brief and keep the Governor fully informed about the policies of the Government and the public affairs of the Cayman Islands.

Appointment of other Ministers

(Constitution section 49)

- 77.1 After being appointed, the Premier shall advise the Governor to appoint the other Ministers, one of whom shall be the Deputy Premier, from among the elected members of the Parliament.
- 77.2 Appointments of the Premier and the other Ministers shall be made by the Governor by instrument under the public seal.
- 77.3 If occasion arises for making an appointment of any Minister between a dissolution of the Parliament and the polling in the next following general election, a person who was an elected member of the Parliament immediately before the dissolution may be appointed as a Minister.

77.4 The Governor shall without delay report to Her Majesty through a Secretary of State every appointment made under paragraphs 77.1 to 77.3.

77.5 The members of the Cabinet shall each, before assuming the functions of their office, make before the Governor oaths of allegiance and for the due execution of their office in the forms set out in the Schedule to the Constitution.

Tenure of office of Premier

(Constitution section 51)

- 78.1 The Governor shall, by instrument under the public seal, revoke the appointment of the Premier if a motion that the Parliament should declare a lack of confidence in the Government receives the affirmative votes of not less than two-thirds of the elected members of the Parliament; but before so revoking the Premier's appointment, the Governor shall consult the Premier and may, acting in the Governor's discretion, dissolve the Parliament instead of revoking the appointment.
- 78.2 The Premier shall vacate the office of the Premier if, after the polling in a general election and before the Parliament first meets thereafter, the Governor, acting in the Governor's discretion, informs that former Premier that the Governor is about to appoint another person as Premier.

Tenure of office of other Ministers

(Constitution section 52)

- 79.1 Any Minister shall vacate their office —
- a. if that person ceases to be an elected member of the Parliament for any reason other than its dissolution;
 - b. if that person is not an elected member of the Parliament when it first meets after a general election;
 - c. if that person resigns their office by writing to the Governor in that person's own hand; or
 - d. if that person is absent from the Cayman Islands or absent from three consecutive meetings of the Cabinet without —
 - e. in the case of the Premier, having given the Governor prior notice of such absence; or
 - f. in the case of any other Minister, having obtained written permission for such absence from the Governor, acting in accordance with the advice of the Premier.
- 79.2 A Minister other than the Premier shall also vacate their office if —
- a. the Premier vacates the office of the Premier; or
 - b. that Minister's appointment is revoked by the Governor, acting in accordance with the advice of the Premier, by instrument under the public seal.

Performance of functions of Ministers in certain events *(Constitution section 53)*

80.1 If the Premier is unable, due to illness or absence from the Cayman Islands, to perform the functions of the Premier's office, the Governor shall authorise the Deputy Premier to perform those functions; and in the absence or illness of the Deputy Premier, the Governor shall authorise another Minister to perform those functions, acting in accordance with the advice of the Premier or, if it is impracticable to obtain the advice of the Premier, acting in the Governor's discretion but after consulting the Cabinet.

80.2 Whenever a Minister other than the Premier is unable, by reason of illness or absence from the Islands or absence from that Minister's duties on leave, to perform the function of that Minister's office, the Governor, acting in accordance with the advice of the Premier, may —

- a. appoint a person who is an elected member of the Parliament to be a temporary Minister; or
- b. assign responsibility for the performance of the functions of that Minister to another Minister (including the Premier),

and may specify the period for which such person shall be a temporary Minister or for which such other Minister shall perform the functions of that Minister.

80.3 If occasion arises for making an appointment under paragraph 80.2.a between a dissolution of the Parliament and the next following general election, paragraph 80.2.a shall have effect for the purpose as if the Parliament had not been dissolved.

80.4 Subject to the Constitution —

- a. a temporary Minister shall hold office; and
- b. a Minister assigned to perform the functions of another Minister shall perform those functions,

until the expiry of the period specified under paragraph 80.2.a or, where no period was so specified, until that Minister is notified by the Governor in writing that that Minister shall cease to hold that office or to perform those functions.

80.5 Any authorisation, appointment or assignment under paragraphs 80.1 or 80.2 shall be made by the Governor by instrument under the public seal, and may be revoked in like manner.

80.6 Any Minister other than the Premier is required to use the Ministerial Leave Form (see Appendix B) when applying for permission to be absent from the jurisdiction, whether it be for personal or official travel. The relevant Chief Officer is required to submit the Ministerial Leave Form on behalf of their Minister.

Allocation of responsibilities to Ministers *(Constitution section 54)*

81.1 The Governor, acting in accordance with the advice of the Premier, shall by directions in writing —

- a. charge any Minister with responsibility for the conduct *(subject to the Constitution and any other Act)* of any business of the Government including responsibility for the administration of any department of government;

- b. designate the style by which any Minister so charged shall be known,

but a Minister shall be charged with responsibility for finance.

81.2 If the persons appointed as Ministers do not include an elected member of the Parliament representing Cayman Brac and Little Cayman, the Minister with responsibility for District Administration should ensure that the District Commissioner liaises with the elected members of the Parliament representing Cayman Brac and Little Cayman.

81.3 Nothing in this paragraph shall empower the Governor to confer on any Minister authority to exercise any function that is conferred by the Constitution or any other law on any person or authority other than a Minister.

81.4 Without prejudice to the generality of paragraph 81.3, except for the purpose of submitting questions relating to such matters to the Cabinet and conducting business relating to such matters in the Parliament, a Minister shall not be charged under this paragraph of this Cabinet Manual with responsibility for —

- a. any matter for which the Governor, acting in the Governor's discretion, is responsible under section 55 of the Constitution;
- b. the discharge by the courts of their judicial functions;
- c. the initiation, conduct and discontinuance of criminal proceedings; or
- d. the audit of the accounts of the Cayman Islands or any authority or office of Government or of the courts.

81.5 A Minister charged under paragraph 81.1 with responsibility for the conduct of any business of the Government may be assisted in the discharge of that responsibility by a board, committee or other similar body consisting wholly or partly of persons who are not public officers and established by a law made under the Constitution or by directions in writing given by the Minister concerned; and any such body shall have such advisory, consultative and administrative functions as may be conferred on it by such a law or directions, but, in exercising any such functions, the body shall be subject to the directions of the Minister concerned.

81.6 Where a Minister finds it desirable to appoint a Parliamentary Secretary, in an advisory and consultative capacity, to assist the Minister with the discharge of that Minister's responsibilities for that Minister's Ministry, that Parliamentary Secretary shall operate under the sole discretion of the appointing Minister.

81.7 Where a Minister has been charged under paragraph 81.1 with responsibility for the administration of any department of government, the Minister shall *(subject to the Constitution and any other law)* exercise general direction and control over the department, and, subject to such direction and control, the department shall be under the supervision of a public officer; but two or more departments of government may be placed under the supervision of one public officer.

81.8 The Governor, acting in the Governor's discretion, may at any time call for any official papers or seek any official information or advice available to a Minister with respect to a matter for which that Minister is responsible under paragraph 81.1.

Precedence of Cabinet meetings

(Constitution section 52(1)(d))

82.1 For all members, attendance at Cabinet meetings should take precedence over all other business. If business of exceptional importance, an overseas visit or other cause makes it seem likely that a member will not be able to attend a particular meeting, that member should, in writing, ask the Governor for permission to be absent. If permission is granted, the Personal Assistant to the Governor will send a notification of that permission to the Cabinet Secretary.

82.2 The Cabinet Secretary should be advised in advance if a member will be unavoidably late or wishes to be excused from attending part of a meeting.

82.3 The Premier should be aware that the Premier's seat in the Cabinet becomes vacant if the Premier is absent from three consecutive meetings without having given the Governor prior notice of the absence.

82.4 A Minister other than the Premier should be aware that that Minister's seat in the Cabinet becomes vacant if that Minister is absent from three consecutive meetings without the written permission of the Governor, acting in accordance with the advice of the Premier, and that the Governor has no power to waive this Constitutional provision.

General Responsibilities

83. Once Ministries and Portfolios are allocated, a member is individually responsible for the conduct of Government business in the subjects in that member's Ministry or Portfolio, including setting out the policy determinations for the administration of the relevant departments of government, in accordance with the principle of collective responsibility. When matters within that member's Ministry or Portfolio need to be referred to the Cabinet for decision or approval of a policy, that member will present the papers and introduce discussion. In the Parliament that member will be expected to conduct any business concerning that member's Ministry or Portfolio, including replies to questions

Responsibilities of a member

84.1 Members are charged with responsibility for such business of the Government and for any departments of the Government as are set out in their letters of appointment. Ministers may also be assigned responsibilities with respect to Statutory Authorities, Government Companies, Boards and Committees. This section of the Cabinet Manual sets out the extent to which the responsibility of members may be exercised.

84.2 A member shall keep under review the policies of the Government for the business and departments within that member's Ministry or Portfolio and recommend, by means of papers to Cabinet, such policies as that member may, from time to time, consider necessary or desirable.

84.3 A member may seek the advice or assistance of the Cabinet Office with respect to the development or implementation of policy initiatives that cut across a number of ministries and departments.

84.4 A member may, as required, call for or consider reports (e.g. Business case study) on the actions being taken or proposed to be taken by the responsible departments within that member's Ministry or Portfolio.

84.5 A member should give such directions as are authorised by legislation and required to enable the execution of policies by any responsible department or to secure the prompt and adequate despatch of any business relating to that matter.

84.6 A member shall cause estimates of annual or supplementary expenditure or revenue to be prepared in the responsible department and consider and revise, if necessary, such estimates for submission to the Ministry of Finance.

84.7 A member should keep under review all legislation relevant to such business of the Government and for any departments of the Government as are set out in their instrument of appointment, and may make proposals in principle for such changes in legislation as that member may from time to time consider necessary or desirable, and make recommendations to the Cabinet on any draft Bill or other instrument prepared by the Attorney General's Chambers resulting from the approval of such proposals in Cabinet meetings.

84.8 A member shall exercise or perform any power or duty conferred upon that member or delegated to that member under the provisions of any law or subsidiary legislation.

84.9 Any directive or request by a Minister to a department shall be conveyed through that Minister's Chief Officer and the functions of a Minister shall not otherwise extend to —

- a. the giving of orders or directions directly to any public officer other than as expressly provided for in legislation;
- b. the giving of any direction which would effect a change in the organisation of a department except so far as it is implementation of an approved Government policy;
- c. the consideration or dealing with matters which have financial, legal or staffing implications without the prior consultation of the Minister of Finance, Attorney General, or Deputy Governor, as appropriate, which concurrence shall be reflected in any subsequent papers placed before the Cabinet;
- d. direct negotiations on land or the entering into contracts between the Government and a third party, which are the responsibility of the Chief Officer of the Ministry charged with responsibility for land, the Director of Lands and Surveys and the Ministry's senior officers.

84.10 A member shall adhere at all times to the Code of Conduct.

Responsibility for Parliament business

(Constitution section 54 & 55)

85.1 The Governor, acting after consultation with the Premier, may assign or delegate to any member, by instrument in writing and on such terms and conditions as the Governor may impose, responsibility for the conduct on behalf of the Governor of any business in the Parliament with respect to any of the matters related to the Governor's special responsibilities.

85.2 Ex officio members sit on the Government Bench in the Parliament and are expected to use their influence and powers of persuasion to ensure that the policies decided in the Cabinet are endorsed by the Parliament.

85.3 Specific responsibilities of the members are as follows —

- a. to introduce Bills approved by the Cabinet for introduction into the Parliament, and in particular to address the Parliament at the second reading of the Bill, to sum up at the conclusion of the second reading debate, to speak on any specific points made on the Bill in Committee, to move any amendments arising out of the second reading debate or of discussion in committee, and generally to give guidance to the Government Bench on any proposed modifications to the Bill as it is passing through the Parliament;
- b. to reply to questions and supplemental questions in the Parliament on matters affecting their Ministries or Portfolios and to ensure that they are briefed by the Chief Officers so as to give adequate reply;
- c. to introduce any official motions on matters affecting their Ministries or Portfolios and to ensure that the Government is informed of the background to such motions, to arrange for any support necessary by other members, to wind up the debate on such matters and to give guidance to the Government Bench on how to vote on any amendment proposed;
- d. to reply to private members' motions on any matter affecting their Ministries or Portfolios;
- e. to table at each meeting of the Parliament any subsidiary legislation affecting their Ministries or Portfolios made since the last meeting;
- f. to present to the Parliament the annual report of each authority or company for which that member has been allocated the responsibility in accordance with the Public Management and Finance Act (*as revised*);
- g. to be ready to give support to Government policies at all times and particularly in general debates following the presentation of the Annual Estimates, development plans or the Speech from the Throne;
- h. to take responsibility in the Parliament for the actions of departments which lie within their Ministries or Portfolios;
- i. to keep under review, by consultation with Chief Officers, action stemming from assurances given in the Parliament whether in reply to questions, by official motion or reply to private members' motions; and
- j. to arrange, as requested through Chief Officers, for the attendance in the Parliament of Heads of Department for which the member is responsible during question time, motions and passage of Bills, to enable information to be supplied to that member on technical or professional matters.

Appendix A

Oath of Cabinet Member

1.1 Oath of Cabinet Member *(Sworn)*

I, _____ being chosen and admitted to the Cabinet of the Cayman Islands, do swear that I will, to the best of my judgment, at all times when thereto required, freely offer my counsel and advice for the good management of the public affairs of the Cayman Islands, and that I will not directly or indirectly reveal such matters as shall be debated in the Cabinet and committed to my secrecy, but that I will in all things be a true and faithful Member of the Cabinet and uphold the principle of collective responsibility.

SO HELP ME GOD.

1.2 Oath of Cabinet Member *(Affirmation)*

I, _____ being chosen and admitted to the Cabinet of the Cayman Islands, do solemnly, sincerely and truly, declare and affirm that I will, to the best of my judgment, at all times when thereto required, freely offer my counsel and advice for the good management of the public affairs of the Cayman Islands, and that I will not directly or indirectly reveal such matters as shall be debated in the Cabinet and committed to my secrecy, but that I will in all things be a true and faithful Member of the Cabinet and uphold the principle of collective responsibility.

Appendix B

Ministerial Leave Request Form

TO: His/Her Excellency the Governor and the Honourable Premier

FROM: [Chief Officer]

DATE: [current date]

SUBJECT: REQUEST FOR LEAVE OF ABSENCE FOR THE MINISTER OF [INSERT RELEVANT TITLE]

In accordance with sections 52(1)(d)(ii) and 63(b) of Schedule 2 of the Cayman Islands Constitution Order 2009, the Honourable Minister responsible for [insert responsibilities] has directed to request your permission to be absent from the jurisdiction from [insert dates] as he/she will be on [insert type of leave].

[Chief Officer]

Honourable Premier
Request Supported/Not Supported

His/Her Excellency the Governor
Permission Granted/Not Granted



Cayman Islands
Government