Appendix A. Different approaches – what the jurisdictional guidances say

This appendix collects and publishes for the first time all of the caretaker guidances from across Australia and New Zealand. This appendix collates and provides a brief overview of the similarities and differences of the approaches adopted by different jurisdictions.

In Australia, caretaker conventions were first published by the Commonwealth in 1987, although they had been explicitly articulated by prime ministers since 1951. The Commonwealth guidance is both the oldest and most authoritative—the majority of State provisions are derived from the Commonwealth. Since 1987, the tendency has been to add prescriptive detail and to enumerate the practices behind the conventions. Pressures on the management and interpretation of caretaker conventions discussed in chapter 5 have prompted a transition from the minimalist approach of a letter from Mr Menzies to his ministers, to a highly planned and administered process of updating and disseminating the caretaker conventions before an election, and providing advice on application during the election campaign.

All jurisdictions have engaged in an increased bureaucratisation of the process, with increased detail and advice in response to breaches and controversies. The focus of the New Zealand caretaker convention guidance, contained in The Cabinet Manual, is broader than its Australian counterparts because of that country’s different electoral system. Introduction of the MMP system of voting in 1996 necessitated an increased focus on transitions and the formation of government. It contains detailed advice about procedures when it is not clear who will form the next government and on decision-making during an extended caretaker period. It was noted in Chapter 2 that in 1996 the caretaker period lasted for nine weeks. Although this has not been repeated at subsequent elections, New Zealand departments are encouraged to plan and prepare for the possibility of a protracted caretaker period (The Cabinet Manual, 2001 DPC, p. 58).

The emphases of caretaker guidance documents have shifted from advising ministers about appropriate conduct during the election period to supporting public sector officials to avoid perceptions of partisanship and prevent governments from exploiting the advantages of incumbency. The majority of jurisdictions now work with caretaker guidance documents that have dual objectives. Ministers and departmental officers have different roles during an election campaign and they need to be clear about their respective roles. As caretaker guidance documents become more detailed with prescriptive advice for public servants, there may be a need to develop and publish two guidances:
the first might be aimed at ministers, outlining their responsibilities within the broader Westminster context and reiterating their relationship with the public service during the caretaker period. The other would provide detailed advice for departments on how best to manage internal arrangements at a time when the fate of the Government is in the hands of the people, examples being the signing of correspondence or decisions about departmentally supported websites.
