

Our Constitutional Arrangements

A Brief Overview

The Queen, through her representative the Governor-General, is head of state in New Zealand. However, by convention, the Queen or Governor-General exercises such powers as they have only on the advice of the Government of the day.

The Government – operating in the name of the Crown – is formed from members of the House of Representatives; typically from the party (or coalition of political parties) that holds the majority of Members of the House. The Prime Minister and Ministers are appointed by the Queen or Governor-General and exercise the powers conferred on the Government by Parliament, so long as they retain the support of the House.

The Parliament is made up of the House of Representatives (the 120 elected Members plus overhang) and the Sovereign (the Queen). The House of Representatives makes laws – which must be assented to by the Sovereign (or her representative) before being enforceable – and exercises the role of holding the Government of the day to account. But for some limited prerogative powers of the Sovereign, the Government may only lawfully do those things that it has been authorised by Parliament to do.

Our constitutional arrangements are complex (and confusing to some):

- the Sovereign is head of state but only acts on the advice of Ministers:
- The Government (Ministers) rules, but may only do so provided it has the support of the House of Representatives. The Government is usually formed, therefore, from the party (or coalition of parties) that has a majority in the House;
- the Government may on the whole only lawfully do what is empowered by Parliament to do – Parliament comprising the House of Representatives and the Sovereign;
- the House of Representatives holds the Government to account and scrutinises its performance on behalf of the people of New Zealand.

The operation of New Zealand's system of government is briefly considered in the next section.

New Zealand's System of Government

Parliament

New Zealand is a constitutional monarchy. As noted above the Sovereign, the Queen of New Zealand is the head of state (and state authority is known therefore as the Crown). However, the powers exercised by the Queen and her representative the Governor-General are done so on the advice, and with the support, of elected representatives of the people: New Zealand operates in effect as a Parliamentary democracy.

The Executive

After each election the party (or grouping of two or more parties) that holds sufficient seats to be assured of the confidence of the House of Representatives will become the Government of the day. From that party or coalition of parties are appointed the Ministers of the Crown, who assume specific responsibilities in relation to the operations of the state, including the funding of these operations. It is the Minister for Arts, Culture and Heritage who is the 'Minister responsible' for your organisation and many of the other cultural agencies and activities with which the state is involved.

Ministers are supported by government departments or Ministries. These organisations provide a range of services, including policy advice, briefings on relevant issues, assistance in the discharge of Ministerial obligations in relation to organisations owned or funded by the Crown, draft replies to correspondence, and administration of the Minister's Budget submissions.

The Minister for Arts, Culture and Heritage is supported by the Ministry for Culture and Heritage. Like all government departments, the Ministry is explicitly apolitical: it serves the policy interests of the Government of the day but does not involve itself in politics. Similarly, Crown owned organisations such as your organisation, established by Parliament through legislation, set their strategic direction in accordance with the interests of the Crown as well as the terms of this legislation; but are not subject to the political imperatives of the party their Minister represents.

Ministers, along with their departments and the Governor-General, form what is known as the Executive wing of government. Parliament [or 'the legislature'] and the judiciary are the other two constituent parts.) Ministers and the Governor-General together form the Executive Council, where Ministers act as the Governor-General's advisors. On the recommendation of these advisors, the Governor-General authorises a range of processes and appointments, and formally assents to the creation of new legislation.

The Cabinet

The Cabinet - and Cabinet committees - are well known mechanisms for determining Government policy and processes. Cabinet is in fact an informal arrangement only: it does not have a constitutional basis. Ministers, in their own right, hold the powers

conferred by the warrant of office from the Sovereign, and these powers are unaffected by whether the Minister is a member of Cabinet, or a Minister 'outside Cabinet'. Nevertheless, Cabinet is the means by which a great deal of Government business is undertaken, where substantive discussion takes place on issues of both policy and politics, and where important decisions are effectively made.

All Ministers, including Ministers outside Cabinet, are bound by the strongly enforced convention of collective responsibility to respect the decisions of the Cabinet, whether or not they were present at the time that decision was made, or whether or not they personally agree with it.

Accountability to Parliament

Representatives of the Government, agencies of government, and Crown owned organisations - including the Minister for Arts, Culture and Heritage, the Ministry for Culture and Heritage and your organisation itself - are answerable to Parliament for their performance in relation to the funding they receive from Government. The accountability requirements will vary according to the nature of the agency – e.g. Crown entity or independent charitable trust.

This may require, for example, the Minister responding to Questions in the House. It will certainly entail Ministers and some organisations appearing before committees of the House at least once a year. These committees are known as select committees, and comprise Members of Parliament from all parties represented in the House.

Caucus

Each of these parties also has regular meetings of all its MPs, who are known collectively as the caucus of the respective parties. Caucus meetings provide MPs with the opportunity to consider a range of policy and political issues. It is at Government caucus meetings that Ministers respond to the concerns of backbench MPs about initiatives of the Executive, and often seek the agreement of all caucus members to a proposed plan of action. At times when the Government's majority is small (or when it is in fact operating as a minority Government dependent on the ongoing support of other individuals or parties) the agreement of the full caucus can be crucial. Without such agreement, the Government can be effectively prevented from taking any action or, at worst, face the loss of the confidence of the House, the ultimate result of which is the calling of a general election.

