



Australian Government

Department of the Prime Minister and Cabinet

**CABINET
HANDBOOK**

9th Edition

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PRIME MINISTER

FOREWORD

The Cabinet is responsible for directing government policy and making decisions on important national issues. The fact that the Cabinet exists by virtue of convention not constitution, and has remained the Government's principal decision making body, is testament to its value.

At the heart of a strong Cabinet are the principles of confidentiality and collective responsibility. Maintaining confidentiality allows the Cabinet to fully discuss issues before making decisions.

It is important the Cabinet operates in a way that reflects how I as the Chair thinks it should. To make informed decisions, the Cabinet must work in a way that is truly consultative. Wherever possible, the Cabinet should consult colleagues, the bureaucracy and the wider public.

With this in mind, it is important that:

- Ministers are the chief advisers on items relating to their portfolio and it is their responsibility to engage their stakeholders.
- Ministers must consult their colleagues early in the process to ensure all policy and implementation issues are addressed before the Cabinet considers the proposal.
- Processes are followed and timeframes are met so that ministers and their departments have time to fully consider items before they are discussed by the Cabinet.

Following the principles and procedures outlined in this 9th Edition of the *Cabinet Handbook* will help support the Cabinet make decisions in the best interest of all Australians.

I look forward to working with my Cabinet colleagues and providing Australia with a strong and effective executive government.

The Hon Malcolm Turnbull MP
Prime Minister

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ROLES AND RESPONSIBILITIES

The Cabinet

1. The Cabinet is the council of senior ministers who are empowered by the Government to take binding decisions on its behalf.
2. The Cabinet is a product of convention and practice. There is no reference to the Cabinet in the Commonwealth Constitution and its establishment and procedures are not the subject of any legislation. Provided the guiding principles of a Cabinet system are met—collective responsibility and solidarity—it is for the Prime Minister of the day to determine the shape, structure and operation of the Cabinet.
3. The Cabinet does not have specific terms of reference or powers laid down in statute. Therefore, the outcomes of its deliberations may require action by:
 - (a) the Governor-General;
 - (b) individual ministers whose executive power is derived from Chapter II of the Constitution;
 - (c) holders of statutory office; or
 - (d) by the Parliament to be put into effect.

Cabinet committees

4. Cabinet committees are usually established either around a subject area, such as national security, or around a general function of government, such as expenditure. Temporary or ad-hoc Cabinet committees may also be established by the Prime Minister to carry out particular tasks.
5. Cabinet committees derive their powers from the Cabinet. Generally, Cabinet committee decisions are brought forward to the Cabinet for endorsement, so the Cabinet retains the ultimate power of decision. While some committees may make final decisions for security or practical reasons, most Cabinet committee decisions are not acted on until they have been endorsed by the Cabinet, or the Cabinet Secretary agrees that decisions can be implemented without the Cabinet's endorsement because they are urgent. In such cases, the Cabinet should be briefed on the Committee decision as soon as practicable. The Cabinet may alter a Cabinet committee decision or ask a Cabinet committee to consider a matter further.

The Prime Minister

6. The Prime Minister is responsible for the membership of the Cabinet and Cabinet committees, determines and regulates all Cabinet arrangements for the Government and is the final arbiter of Cabinet procedures.
7. The Prime Minister advises the Governor-General on the appointment of ministers (including the title and scope of each minister's portfolio) and determines which ministers will form the Cabinet.

8. As chair of the Cabinet, the Prime Minister sets the Cabinet's agenda and determines when and where meetings take place. The Prime Minister leads and guides discussion to achieve a collective response and ensures the clarity of decisions. In exceptional circumstances where a collective decision is not possible the Prime Minister's view is authoritative.

The Ministry

9. The Ministry is comprised of the Ministers of State including Cabinet ministers, other ministers and assistant ministers. Together they form the Federal Executive Council – the body which formally advises the Governor-General on the administration of the Commonwealth of Australia.

10. The Cabinet principles and conventions apply to the whole Ministry, not simply those ministers in the Cabinet.

The Cabinet Secretary

11. The Cabinet Secretary is appointed by the Prime Minister to manage the day-to-day procedural and operational matters of the Cabinet and any Cabinet committees.

12. The Cabinet Secretary or the Assistant Cabinet Secretary attend all meetings of the Cabinet and Cabinet committees.

13. Through delegations from the Prime Minister, the Cabinet Secretary has the power to:

- (a) provide authority to ministers to bring items forward for consideration by the Cabinet or a Cabinet Committee;
- (b) finalise the Cabinet and the Cabinet committee business lists;
- (c) maintain and enforce the integrity of Cabinet rules and processes, including working with the Department of the Prime Minister and Cabinet (PM&C) to ensure Cabinet submissions are of high quality;
- (d) authorise Cabinet minutes;
- (e) approve absences of Cabinet ministers; and
- (f) deal with practical issues regarding the co-option of non-Cabinet ministers and assistant ministers, and the attendance of officials.

14. The Cabinet Secretary is also responsible for advising the Prime Minister on:

- (a) appointments made by the Cabinet, including Board appointments and appointments of Government; and
- (b) the forward programme of the Cabinet and the Cabinet committee meeting dates.

The Assistant Cabinet Secretary

15. The Assistant Cabinet Secretary is appointed by the Prime Minister to support the Cabinet Secretary manage the day-to-day procedural and operational matters of the Cabinet and any Cabinet committees, including by:

- (a) recording deliberations of Cabinet and Committee meetings;
- (b) enforcing best practice Cabinet rules and processes, including by supporting the Cabinet Secretary in upholding the quality of documents; and
- (c) monitoring and providing reports to the Cabinet on the implementation of Cabinet and Committee decisions, as well as key Government decisions.

The Cabinet Division

16. The Cabinet Division (formerly the Cabinet Secretariat and the Cabinet Implementation Unit) is a part of the government that provides continuity and impartial support for operations at the centre of government. It is located in PM&C and is staffed and managed by officers of PM&C. The Cabinet Division exists to support the Prime Minister, the Cabinet Secretary, the Assistant Cabinet Secretary and the chairs of Cabinet committees in ensuring that government business is conducted in an effective and timely way and that proper collective consideration takes place.

17. The Cabinet Division is also responsible for the management of the records of successive Cabinets. It maintains the collection of Cabinet documents for the current Government and preserves the Cabinet records of previous Governments.

Implementation of Cabinet Decisions

18. The Cabinet's role does not end with a decision. Ministerial oversight and regular tracking of progress for complex programmes is essential to ensure policies are implemented properly and any problems can be addressed as soon as possible.

19. The Assistant Cabinet Secretary, with the support of PM&C, is responsible for tracking and monitoring the implementation progress of Cabinet decisions and providing detailed and regular feedback to the Cabinet.

CABINET CONVENTIONS AND PRINCIPLES

20. A Westminster-style Cabinet is defined by adherence to the principles of collective responsibility and Cabinet solidarity. These principles are the binding devices that ensure the unity of purpose of the Government and underpin the formulation of consistent policy advice.

Collective Responsibility

21. Collective responsibility is a long standing and integral part of the Cabinet system. It requires that whatever the range of private views put forward by ministers in Cabinet, once decisions are arrived at and announced they are supported by all ministers. It ensures that the Government is collectively accountable and responsible to the Parliament and to the people of Australia.

22. In practice, a decision of the Cabinet is binding on all members of the Government regardless of whether they were present when the decision was taken. Issues may, and should, be debated vigorously within the confidential setting of Cabinet meetings. The aim is to reach some form of consensus so that the Prime Minister, as chair of the Cabinet, can summarise what the collective decision is for recording in the Cabinet minute.

Cabinet Solidarity

23. Members of the Cabinet must publicly support all Government decisions made in the Cabinet, even if they do not agree with them. Cabinet ministers cannot dissociate themselves from, or repudiate the decisions of their Cabinet colleagues unless they resign from the Cabinet. It is the Prime Minister's role as Chair of the Cabinet, where necessary, to enforce Cabinet solidarity.

Ministerial Responsibility

24. In upholding the principles of collective responsibility and Cabinet solidarity, ministers must:

- (a) not talk publicly about matters that they propose to bring to the Cabinet nor announce a major new policy without previous Cabinet approval;
- (b) not express private views on Government policies nor speak about or otherwise become involved in a ministerial colleague's portfolio without first consulting that colleague and possibly the Prime Minister;
- (c) understand that absolute confidentiality of Cabinet discussions is essential;
- (d) adopt a strict need to know approach to any briefing they give to their staff and departmental officers on the outcome of Cabinet decisions;
- (e) enforce the strictest discipline in their offices and departments to avoid Cabinet agenda items or decisions being either knowingly or unknowingly disclosed; and
- (f) ensure that Cabinet submissions provide enough detail on risk and implementation challenges to ensure the Cabinet can make an informed decision on the efficacy of the proposal.

25. The proper implementation of collective responsibility and Cabinet solidarity is entirely dependent on a commitment to three important operational values: consultation, confidentiality and respect for the primacy of Cabinet decisions.

Consultation

26. The principle of collective responsibility can only operate effectively if all members of the Cabinet are well informed and well advised (including by their departmental officials) about the decisions they are being asked to make. Timely and thoughtful consultation is the only way to ensure that there are no surprises and each minister has the opportunity to inform the discussion, bringing to the table his or her portfolio knowledge and political judgement.

27. Ministers bringing forward submissions are responsible for ensuring comprehensive consultation across Government. A key purpose of early consultation in the development of proposals is to ensure that differences between ministers are resolved in advance of the Cabinet's consideration or, if resolution is not possible, differences are identified and set out in such a way as to facilitate informed decision-making.

Confidentiality

28. The principle of collective responsibility requires the strict confidentiality of all Cabinet proceedings and documentation.

29. All attendees are responsible for ensuring that what is considered by the Cabinet, when and how it does so, and the decision Cabinet reaches on particular matters remain confidential. Ministers and officials should not disclose proposals likely to be considered at forthcoming meetings outside Cabinet-approved consultation procedures. Nor should they disclose the nature or content of the discussions or the views of individual ministers expressed at the meeting itself.

30. Obviously general information about what has been decided by the Cabinet is, on occasions, released into the public domain by persons authorised to do so. But this does not detract from the importance of allowing the Prime Minister or the Cabinet itself to decide what is disclosed publicly about any decision they have reached.

31. Effective Cabinet confidentiality requires the protection of Cabinet deliberations not only at the time an issue was current but also in the future. Ministers in successive governments have relied on the convention that their views, either written or spoken will remain confidential well into the future. It is only with the confidence in this convention that ministers can enjoy freedom to explore all policy options without the need to temper their comments or views.

32. Ministers and assistant ministers and their staff should not seek from departments the Cabinet documents of the previous government, or the advice provided to it. The disclosure of such documents would encroach upon the principle of Cabinet confidentiality and involve the disclosure of options, conversations, and other materials expressed or undertaken uninhibitedly in the expectation of their continuing confidentiality.

Primacy of the Cabinet

33. Ministers must carry out Cabinet-determined policies with respect to their own portfolios, whether or not they agree with such policies. Ministers (and portfolio agencies) must act on Cabinet decisions as recorded in Cabinet minutes.

CABINET MEETINGS

Ministerial Attendance

34. Cabinet and Cabinet committee meetings take precedence over all other ministerial business with the exception of attendance at the Federal Executive Council.
35. Ministers must seek to ensure that the routine business of Parliament does not interrupt their Cabinet attendance. Ministers are responsible for making appropriate pairing arrangements and for organising their routine chamber duty to be performed by other ministers where there is a conflict with Cabinet or Cabinet committee meetings.
36. Ministers should ensure that they do not commit to engagements that might conflict with scheduled Cabinet and Cabinet committee meetings.
37. If a minister does not expect to be available to attend a meeting of the Cabinet or a Cabinet committee, that minister must seek permission for his or her absence from the Cabinet Secretary, and give the reasons for the absence.
38. Ministers, when absent, should be represented in Cabinet meetings only by other ministers acting in their position and only where agreed by the Cabinet Secretary.

Co-opting ministers who are not members of the Cabinet

39. Ministers not in the Cabinet (including assistant ministers) with a portfolio interest in an item listed for Cabinet (or Cabinet committee) consideration may seek to be co-opted for that item by having the relevant portfolio Cabinet minister make a request to the Cabinet Secretary. If co-opted, that minister will be sent the relevant papers and will participate fully in the discussion of that item, withdrawing once his or her item has been considered. The Cabinet Secretary may co-opt a minister to a meeting even if the minister has not made a request to be co-opted.
40. The Cabinet Division will inform co-opted ministers when the meeting is likely to consider their item and call them when required.

Quorum

41. There is no quorum for Cabinet or Cabinet committees. The decision to proceed with a Cabinet or Cabinet committee meeting is made by the chair taking into account:
 - (a) the importance of the items under consideration;
 - (b) the presence of relevant ministers; and
 - (c) the advisability of taking decisions if few ministers are present.

Attendance of Officials

42. In order to ensure the proper emphasis on the role of ministers in the Cabinet, officials and ministerial advisers do not attend Cabinet meetings.

43. As Cabinet committees are a forum for considering specialised issues, officials and ministerial staff may attend Cabinet committee meetings, with the agreement of the Prime Minister. Attendance is limited to the most senior levels of the Public Service (secretaries, agency heads and senior executive service band 3) and ministerial staff (chiefs of staff). Requests for attendance by other advisers and officials require the specific agreement of the Cabinet Secretary and will only be considered in exceptional cases.

44. Officials and ministerial staff attending Cabinet committee meetings must adhere to the strict confidentiality conventions of all Cabinet proceedings and documentation. This includes taking a need to know approach with their colleagues.

Official Note Takers

45. Generally there are three official note takers in the room during Cabinet discussions. Together they are responsible for drafting Cabinet minutes that properly reflect the Cabinet's decisions and provide ministers with clear direction and authority to implement the decisions.

46. Note Taker 1 is the Secretary of PM&C or a delegate. Note Taker 2 is generally the First Assistant Secretary or Assistant Secretary of PM&C's Cabinet Division. Note Taker 3 is a senior officer of PM&C who has subject matter expertise on the item under discussion. Note Taker 3 will change throughout the meeting according to the item under discussion.

47. Note takers use the Cabinet notebooks issued by the Cabinet Division and must not make any other record of the discussion. Note takers do not take a verbatim record but their notes may from time to time record the individual views of ministers and as such these notebooks are highly sensitive documents.

48. The notebooks remain the property of the Secretary of PM&C and are protected from early public release under the *Archives Act 1983* and cannot be sought under the *Freedom of Information Act 1982*. Cabinet notebooks are publicly released once they enter the open access period.

Declarations of Private Interests

49. Ministers and officials attending Cabinet or Cabinet committee meetings must, declare any private interests of which they are aware. This can include pecuniary interests, held by them or by members of their immediate family, which may give rise to a conflict with their public duties. Any such declarations will be recorded by the Cabinet note takers.

50. It is then open to the Chair of the meeting to excuse a minister from the discussion or to agree expressly to his or her taking part. Generally, a minister would withdraw from discussion of any proposal to appoint a person to a Government body who is a relative of that minister.

51. Once the Cabinet has been made aware of a particular private interest, it will not normally be necessary to repeat that declaration in subsequent Cabinet discussions unless a significant time has elapsed since a declaration and the interest is one that might not be well known to colleagues.

Meeting Timetable

52. Cabinet meets in the Cabinet room at Parliament House, Canberra, in most weeks of the year. Special Cabinet meetings may be held at other times and other places as necessary. Cabinet committees meetings are scheduled as required.

53. The Parliamentary Business Committee of Cabinet (PBC) meets weekly during each Parliamentary sitting period and at other times, as necessary.

54. The Cabinet Division provides information about the Cabinet and Cabinet committee meeting times to ministers' offices and the Public Service.

Cabinet Minutes

55. The Cabinet Division produces minutes of decisions as soon as possible after each Cabinet meeting. The Cabinet minutes record the decisions of the Cabinet in a form that enables the necessary action to be taken, they do not record the detail of discussions at the meeting.

56. Cabinet committee minutes that require endorsement by the Cabinet are marked accordingly. When they have been endorsed by the Cabinet, a superseding minute is issued.

57. Where the Federal Executive Council's approval is required, action on Cabinet minutes must be held over until that approval has been obtained.

Circulation

58. Once the Cabinet Secretary has approved and signed the Cabinet minutes, the Cabinet Division is responsible for their circulation.

59. The Cabinet and Cabinet committee minutes are normally circulated to all Cabinet ministers or to the relevant Committee member, any non-Cabinet ministers co-opted to a meeting for that item or to non-Cabinet ministers who have a direct portfolio interest in the matter. Cabinet minutes are only circulated to departments which are specifically required to take action or which have a need to know. Departmental secretaries are expected to have procedures in place to ensure that Cabinet minutes are circulated internally with the strict application of the 'need-to-know' principle and that a proper record is kept of anyone who has access to a Cabinet minute.

60. If ministers consider that any minutes are essential for their department's operations, they may make a request to the Cabinet Secretary to make the minutes available to their department for information and any necessary action.

61. Expenditure Review Committee of Cabinet (ERC) minutes recording Budget decisions are circulated to ERC ministers and the relevant portfolio ministers only, but are provided in the Cabinet room to other Cabinet ministers just prior to the Budget Cabinet meeting.

Amendments

62. A minister may disagree with the wording of a Cabinet minute and request that it be amended. Such a request is made in writing to the Cabinet Secretary. If it is agreed that the Cabinet minute does not accurately reflect the Cabinet outcome, an amended Cabinet minute may be issued. If there is a more fundamental dispute over the content of the Cabinet minute, the matter may need to be brought forward to the Cabinet for consideration.

CABINET BUSINESS

Matters for Cabinet Consideration

63. As a general rule, ministers should put before their colleagues the sorts of issues on which they themselves would wish to be consulted—matters of public interest, importance, or controversy. The need to advise the Cabinet on these matters must be balanced against the demands that Cabinet meetings make on ministers' time. It is ultimately for the Prime Minister, on the advice of the Cabinet Secretary, to decide what matters require Cabinet consideration. However, only in emergencies will significant decisions not go to the Cabinet.

64. The following is an indication of the kind of issues that would normally require consideration by the Cabinet:

- (a) proposals relating to the delivery of the Government's priorities;
- (b) significant or controversial policy issues;
- (c) proposals affecting the Government's financial position, or important financial commitments;
- (d) significant matters affecting state and territory government relations;
- (e) the most significant international business, including international treaties and agreements;
- (f) national emergencies, including any decision to take military action;
- (g) proposals that affect Australia's constitutional arrangements;
- (h) proposals requiring significant new or amendments to legislation or regulations;
- (i) any significant or controversial exercise of a minister's statutory power; and
- (j) significant Government appointments.

65. Ministers should give serious consideration as to whether a matter could be dealt with by correspondence, for example, minor policy matters that are non-controversial.

66. Where there is uncertainty about the level and type of consideration needed, ministers should seek advice from the Cabinet Secretary. Similarly, departments should seek advice from the Cabinet Division.

67. Matters coming forward to the Cabinet need to comply with the Cabinet rules and procedures of the submission process. These are outlined in this Handbook and Cabinet Circulars issued by Cabinet Division and include strict page limits and deadlines for circulation and the agreement of costs.

Authority for Matters to Come Forward

68. Only matters with authority can be considered by the Cabinet. Ministers should write to the Prime Minister to seek authority for all matters they wish to have considered by the Cabinet. The minister's letter should clearly outline the purpose and scope of the proposal and indicate how the proposal relates to the delivery of the Government's priorities. If there are any financial implications, they should be identified. If there is a critical date by which a decision is required, this should also be identified and supported by explanation.

69. Following consultation with the Prime Minister, the Cabinet Secretary may respond in writing advising whether authority has been granted for the matter to be brought forward to the Cabinet, the agreed scope of the proposal, the manner in which it is to be brought forward and any other conditions. If, after authority has been provided, there is a change in circumstances which requires alteration to the scope of the proposal or a significant delay in the timing for consideration, ministers must write again to the Prime Minister seeking additional or varied authority.

70. Matters which the Cabinet has requested come forward do not require any further authority, provided the request is recorded in a Cabinet minute. Similarly, the Prime Minister or the Cabinet Secretary may contact a minister requesting an item be brought forward for Cabinet consideration. If bringing the matter to the Cabinet is no longer appropriate, the relevant minister should write to the Cabinet Secretary explaining why Cabinet attention is no longer required and seek agreement to directly conclude the matter.

The Business List

71. The Cabinet Secretary, in consultation with the Prime Minister, approves the business list for each Cabinet or Cabinet committee meeting. The Cabinet Division issues business lists to ministers at least one week in advance of a meeting. The business list advises the matters to be considered, the minister responsible for each item and any co-opting arrangements.

72. If ministers wish to have an item removed from a business list, they must contact the Cabinet Secretary as soon as possible to seek agreement that the item be removed, outlining the reasons for removal and proposing a new date for consideration if necessary.

73. The Cabinet Division does not circulate Cabinet business lists to departments but does notify the relevant Cabinet Liaison Officer if their minister has an item on a business list. Ministers' offices are also responsible for advising their departments and seeking any required briefing.

74. As meeting times and business lists are subject to change and new meetings may be called from time to time, revised business lists may be issued. While the Cabinet Division will always endeavour to keep ministers advised, ministers' staff and departments must be alert for any late changes and should check that they have obtained the relevant information.

FORMS OF CABINET BUSINESS

Cabinet Submissions

75. Any documents conveying substantive material to the Cabinet must be covered by a Cabinet submission. Cabinet submissions are subject to a number of rules and procedures, including strict timeframes, page limits, consultation requirements, the agreement of costs, and implementation arrangements.

76. Cabinet documents must include a clear recommended course of action supported by concise arguments that establish the rationale for the recommended option. The Cabinet Division can provide advice and guidance to ministers and their departments to ensure documents are written well.

77. Submissions coming before the Cabinet must be sponsored by the Cabinet minister with portfolio responsibility. Proposals may be sponsored jointly by more than one minister, though it is generally preferable for responsibility to be allocated to one or two key ministers and for the other ministers to be thoroughly consulted during the preparation of the submission.

78. Ministers are expected to take full responsibility for the content, quality and accuracy of advice provided to the Cabinet under their name. Ministers bringing forward submissions are also responsible for ensuring that the necessary consultation takes place at ministerial and officials levels, to enable a fully informed decision. It is particularly important that there is agreement on factual matters, including costs.

79. The circulation and lodgement requirements ensure appropriate consultation occurs prior to the item coming before the Cabinet. There are two mandatory consultation processes during the development of Cabinet submissions, the exposure draft and draft submission:

- (a) the exposure draft is a working draft of the submission which is circulated to other departments for comment and suggestions. Ministers and departments must be prepared to amend the text of a draft in response to suggestions that are made in the consultation process. When circulating an exposure draft, ministers and departments should allow sufficient time for consultation with their colleagues. The Cabinet Secretary and the Cabinet Division provide further guidance on the appropriate timeframes for clearance and circulation; and
- (b) the draft submission for coordination comment must be circulated to central agencies and affected departments. The coordination comments are the impartial advice of the Public Service to the Cabinet and form part of the final submission that is circulated to ministers. Departmental secretaries are expected to ensure that coordination comments provide useful and targeted advice to assist the Cabinet. Coordination comments are not cleared by ministers or ministerial advisers.

80. Final submissions must be circulated to ministers at least three working days before the relevant Cabinet meeting. Breaching this three day rule requires the approval of the Cabinet Secretary in consultation with the Prime Minister. Approval will only be given where there is a need for urgent consideration.

81. Details of the timeframes for the lodgement and circulation of Cabinet documents is at Appendix A.

Amending and Withdrawing Submissions

82. Once a Cabinet submission has been finalised, amendments will not be made by Cabinet Division unless the change is of a minor editorial nature. If a minister wishes to make substantive amendments to a paper they have already submitted, the usual practice is to withdraw the original paper and submit a corrigendum to that submission.

83. If a sponsoring minister wishes to withdraw his or her submission from consideration after the business list has been issued, that minister should provide notice of withdrawal, including a reason for the withdrawal, in writing to the Cabinet Secretary as soon as practicable.

The Ten Day Rule

84. The Cabinet Secretary may determine that submissions with a high level of agreement which are unlikely to require detailed discussion by the Cabinet be circulated to ministers for ten working days (exclusive of public holidays) for consideration.

85. Should no minister raise concerns with the Cabinet Secretary about the recommendations in the submission within the ten day period, a draft minute based on the recommendations in the submission is then scheduled for consideration and endorsement at the next available Cabinet meeting.

86. If concerns are raised by ministers within the ten day period, the Cabinet Secretary facilitates discussions between the relevant ministers and, where appropriate and necessary, their departments and agencies, to resolve any concern or disagreement.

Cabinet Memoranda

87. Cabinet memoranda are papers which are submitted by departments rather than ministers. Memoranda ask the Cabinet to consider possible approaches, rather than recommendations seeking Cabinet agreement.

88. Memoranda are to contain the same information as submissions and require the same authority, circulation and consultation.

First Pass Process

89. The First Pass process enables the Cabinet to consider and discuss the direction of a proposed major policy before committing resources to its further development. A First Pass provides the Cabinet with an overview of the issue and proposes options for consideration. It should also seek the Cabinet's agreement for further development of the policy in a full Cabinet submission.

90. Unlike a standard Cabinet submission, the First Pass is not the final decision point and is therefore not subject to the compliance requirements of a Cabinet submission. However, any initial regulatory impacts, suggested delivery arrangements and estimated costs are to be outlined in the First Pass as these estimates will give the Cabinet some guidance on the implications and costs of different options.

91. The First Pass still requires consultation across Government. This shorter process involves one mandatory consultation process with central agencies and affected departments providing short formal consultation comments. These are attached to the First Pass by the Cabinet Division. As with all Cabinet documents, the final First Pass must be circulated to ministers three working days before the relevant Cabinet meeting.

Matters without Submission

92. Ministers should only seek authority to bring forward a matter for their colleagues' consideration without a Cabinet submission where the matter is urgent, unforeseen and unavoidable.

93. Ministers should write to the Cabinet Secretary at least six working days before the meeting at which a decision is sought. The letter seeking exemption from standard Cabinet processes must demonstrate why the matter warrants urgent consideration which will not allow their colleagues full notice of the proposal or consultation with the relevant departments.

94. The letter must have attached a concise summary of the matter (no longer than five pages), which has clear recommendations for the Cabinet's consideration, a supporting argument including an analysis of the associated risks, and any New Policy Proposals attached. All pages of the letter and the attachments must be marked 'PROTECTED Sensitive: Cabinet'.

95. If the Cabinet Secretary agrees to the matter being raised, the Cabinet Division will circulate copies of the letter and any attachments to all Cabinet ministers three working days in advance of the meeting. The Cabinet Secretary will advise the minister concerned if they do not agree that the matter be raised without a Cabinet submission.

Oral Items

96. In cases of particular urgency or confidentiality, or to test preliminary support for a proposal, a minister may wish to raise an oral item at a Cabinet meeting. Oral items for the Cabinet will be accepted only with the prior approval of the Cabinet Secretary.

Presentations to the Cabinet

97. The use of audio-visual presentations (PowerPoint presentations, slide decks, infographics and so on) is strongly encouraged, to complement items going to Cabinet. While all formal recommendations to the Cabinet should be written in the accompanying Cabinet documentation, the presentation should:

- (a) provide supporting explanation of the submission, rather than simply regurgitate information already included in the submission;
- (b) outline complex issues to the Cabinet in order to seek the Cabinet's guidance; and
- (c) be clearly marked 'PROTECTED Sensitive: Cabinet'.

98. A hard copy of the presentation must be provided to the Cabinet Secretary at least three working days before the relevant meeting (i.e. at the same time as the Cabinet document it is supporting) and becomes part of the formal Cabinet record. It is not necessary to attach a copy of the presentation to the Cabinet submission.

The Budget Process

99. The annual Budget process typically begins in November or December each year when the Cabinet or relevant Cabinet committee considers portfolio ministers' new proposals and expected major pressures and establishes the Budget priorities. From February to May, the ERC develops the Budget against the background of the Government's political, social and economic priorities. At the end of this process a Budget Cabinet meeting is scheduled where the Cabinet provides final consideration and approval of the Budget.

Appointments

100. Where a significant government appointment is proposed, the responsible minister must write to the Prime Minister seeking approval of the appointment before any appointment action is finalised. While most significant appointments will require Cabinet approval, the Prime Minister may determine that Cabinet consideration is not required and authorise the appointment.

101. In preparing appointment proposals for the Prime Minister's consideration, ministers must ensure that proposals reach the Prime Minister's office at least 15 working days before the Cabinet meeting at which the appointment may be raised for consideration. As a general rule, proposals should be submitted for consideration well in advance of the time the position is to be filled, but usually no more than three months in advance. For appointments that require Federal Executive Council consideration, calculation of the lead time must take into account the cut-off dates for submission of Federal Executive Council agenda items.

102. The appointments to be brought to the Prime Minister's attention include:

- (a) significant full-time or part-time appointments (including interim appointments) to boards, commissions or statutory offices;
- (b) full-time chief executive officer (CEO) positions in such agencies (where the board selects the CEO, the Government should be consulted and the minister should not signify agreement without the approval of the Prime Minister);
- (c) acting appointments in the above categories, except that minister's may extend the term of an appointee once for a period of up to three months without consulting the Prime Minister;
- (d) appointments to significant non-statutory tribunals, advisory bodies and commissions of inquiry; and
- (e) appointments as heads of mission other than Austrade managed posts.

103. For other proposed appointments, it is for ministers, in consultation with the Prime Minister if appropriate, to judge whether the proposal should be brought to the Prime Minister's or the Cabinet's attention.

104. To avoid pre-empting any decisions, potential appointees are to be approached initially only to ascertain:

- (a) a willingness for their name to be put forward for consideration along with other candidates; and
- (b) whether, if selected, there would be any conflict of interest, in accordance with the Government's requirements.

Proposals for appointments

105. In submitting proposals to the Prime Minister, ministers must ensure that an account is given of the selection process. Where the minister recommends re-appointment, particular justification for doing so is to be included. Any urgency or sensitivity relating to the position or the proposed appointment must be explained.

106. In proposing appointments to a Government Business Enterprise ministers are to follow the procedures set out in the Department of Finance guidelines: *Resource Management Guide No 126 – Commonwealth Government Business Enterprise Governance and Oversight Guidelines August 2015*.

107. The Minister's proposal should also confirm that:

- (a) the person being proposed is appropriately qualified and has experience relevant to the vacancy;
- (b) the appointment would conform with any applicable legislation;
- (c) due regard has been paid to gender balance in appointments;
- (d) attention has been paid to the need to have an appropriate geographical balance in appointments; and
- (e) any necessary consultation with other ministerial colleagues or state or territory counterparts has occurred (nominating ministers should consult relevant ministerial colleagues when proposing to appoint officers employed in another portfolio to an advisory committee in their own portfolio; where a state or territory public servant is being considered for appointment to a part-time position, the relevant premier, chief minister or state or territory minister should also be consulted).

108. Every appointment proposal to the Prime Minister must be accompanied by the following attachments (templates are available from the Cabinet Division):

- (a) an Appointment for Cabinet form, whether or not the particular appointment is a candidate for Cabinet consideration. All questions on the form, including accurate remuneration details, must be answered;
- (b) an up-to-date curriculum vitae (one to two pages);
- (c) a completed and signed Private Interests Declaration; and
- (d) a current membership list of the relevant organisation, including the proposed appointments and the resulting gender and geographical balance.

Circulation and announcement

109. Circulation of appointment minutes is limited on the understanding that no information concerning an appointment is to be divulged until all necessary processes have been completed (for example, the Governor-General has made the appointment) and an announcement made by the minister.

110. No public announcement is to be made prior to approval of the appointment by the Governor-General, the Prime Minister or the Cabinet (as relevant).

111. In exceptional circumstances, where the appointment is to be made by the Governor-General following the Prime Minister's consideration, it may be possible to obtain approval from the Governor-General for the early announcement of a proposed appointment before the processes have been completed. The Federal Executive Council Secretariat (located in the Cabinet Division) will assist with advice and make any necessary arrangements in such cases.

Re-appointments

112. The procedures to be followed for re-appointments are the same as those for appointments.

Appointments of close relatives

113. Additional procedures apply to appointments concerning close relatives of ministers, members of Parliament, ministerial staff or departmental secretaries and agency heads. Any such relationship should be noted in appointment proposals.

114. To avoid the appearance of conflict of interest, those involved in the appointments process should have no family relationship with the person under consideration and any ministers concerned should absent themselves from all discussion on that matter.

HANDLING CABINET DOCUMENTS

115. Cabinet documents are any material that:

- (a) is submitted to and considered by the Cabinet (for example submissions including pre-exposure drafts, exposure drafts, drafts for coordination comments, and final submissions; drafting comments, including coordination comments; and any other documents which are both identical in all relevant respects to those considered by the Cabinet and precursors of documents submitted to the Cabinet);
- (b) reveal the decision and/or deliberations of the Cabinet (business lists, Cabinet minutes and notes taken by Cabinet note takers);
- (c) are prepared by departments to brief their ministers on matters proposed for Cabinet consideration; and
- (d) have been created for the purpose of preparing a submission to the Cabinet.

116. The preparation, handling and storage of Cabinet documents are subject to detailed security requirements determined by the Cabinet Division. The requirements apply equally to ministerial offices and their staff as to public servants.

117. Cabinet documents must not be copied, and this rule includes transcribing or copying of text of Cabinet documents (particularly minutes) into departmental IT systems.

118. The production and circulation of Cabinet minutes are strictly controlled by the Cabinet Division and, if extra copies of these are required, a request must be submitted to the Cabinet Division including information on why access is being sought. This information will assist the Cabinet Division assess whether the department has a 'need-to-know' the contents of the Cabinet minute.

119. Cabinet documents must be kept in Cabinet-specific files that are appropriately classified. Cabinet documents and files must be held in suitably classified storage containers. Departments and ministers' offices are required to maintain a record of who has had access to each Cabinet document.

120. Cabinet documents must only be circulated between departments via the Cabinet network designated by Cabinet Division. It is not acceptable to circulate documents between departments on other email systems, regardless of the classification of the network.

121. The unauthorised disclosure of Cabinet documents undermines collective ministerial responsibility. It also undermines the convention of Cabinet confidentiality. It is essential that the confidentiality of Cabinet documents, including draft Cabinet documents, is maintained to enable full and frank discussions prior to the Cabinet making its decision.

122. The vital importance of confidentiality in relation to the deliberations of Cabinet is recognised in legislation and under the common law. The *Freedom of Information Act 1982* (the FOI Act) recognises the special nature of Cabinet deliberations in the exemption it provides for certain Cabinet documents from disclosure.

123. Requests for access to Cabinet documents and Cabinet-related material under the FOI Act must be handled in consultation with the Freedom of Information Coordinator of PM&C.

Custody of Cabinet Documents

124. Cabinet documents are considered to be the property of the Government of the day. They are not departmental records. The convention is that Cabinet documents are confidential to the Government which created them and not the property of the sponsoring minister or department. Access to them by succeeding Governments is not granted without the approval of the current parliamentary leader of the appropriate political party.

125. Cabinet records (files) are held on behalf of the Government in the care and control of the Secretary of PM&C and are issued to ministers and departments on a need to know basis. Once a minister or department no longer has any immediate need for them, and, in any event, when the minister vacates office or a change of Government occurs, any copies of Cabinet documents must be returned to the Cabinet Division or destroyed.

126. Cabinet records and notebooks are accessible to the public through the National Archives of Australia after the expiration of the statutory closed period. The closed period, which for Cabinet documents currently varies between 20 to 30 years, seeks to provide the best balance between the need to safeguard privacy, security and confidentiality of the Cabinet, and to use available resources to best effect and maximise public access to records.

127. The Secretary of PM&C may authorise requests for access by former Prime Ministers, former ministers, former secretaries and some other specified Government office holders who seek access to Cabinet documents with which they dealt personally while in office. Access will not be granted without the approval of the current parliamentary leader of the political party in Government at the time the requested record was created.

CARETAKER CONVENTIONS AND CABINET

128. The caretaker period begins at the time the House of Representatives is dissolved and continues until the election result is clear or, if there is a change of Government, until the new Government is appointed. By convention, the Government ensures that important decisions are not taken in the caretaker period that would bind an incoming government and limit its freedom of action. The basic caretaker conventions require Government to avoid implementing major policy initiatives, making appointments of significance or entering major contracts or undertakings during the caretaker period and to not involve departmental officers in election activities.

129. The Ministry, the Cabinet or the Cabinet committees may meet in the caretaker period if this is necessary for the continuance of the normal business of Government, but the range of matters that may be considered is constrained by the conventions. Normally, efforts are made to clear necessary business prior to the caretaker period, thereby avoiding the necessity for meetings during the caretaker period.

130. The basic conventions are directed to the taking of decisions, and not to their announcement. Accordingly, the conventions are not infringed where decisions taken before the caretaker period are announced during the caretaker period. However, it is desirable, if the decisions concern significant initiatives, that they be announced in advance of the caretaker period in order to avoid controversy.

Appendix A: Timeframes *for the Lodgement of Cabinet Documents

Figure 1: The Submission Process

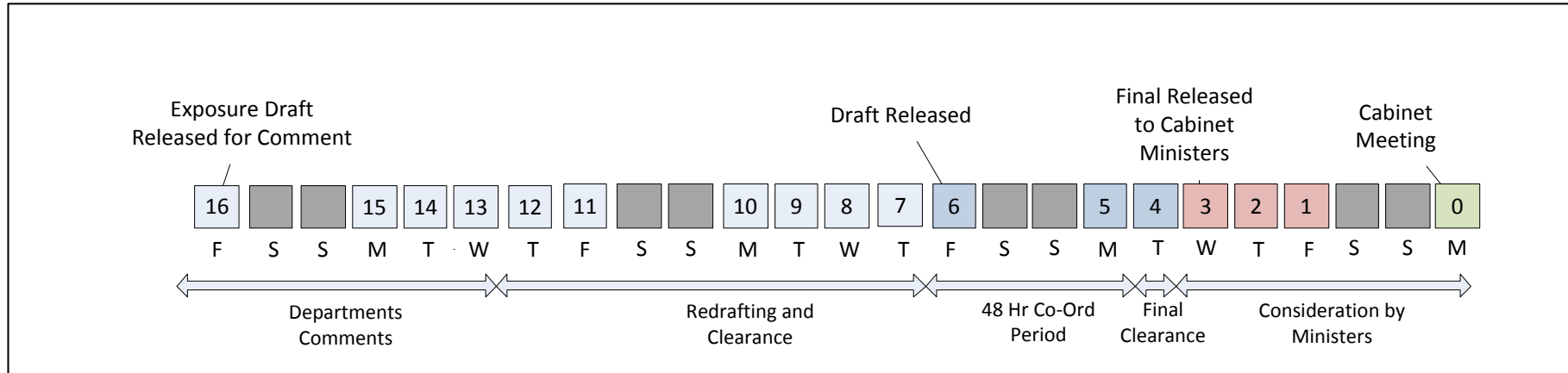


Figure 2: Matters Without Submission

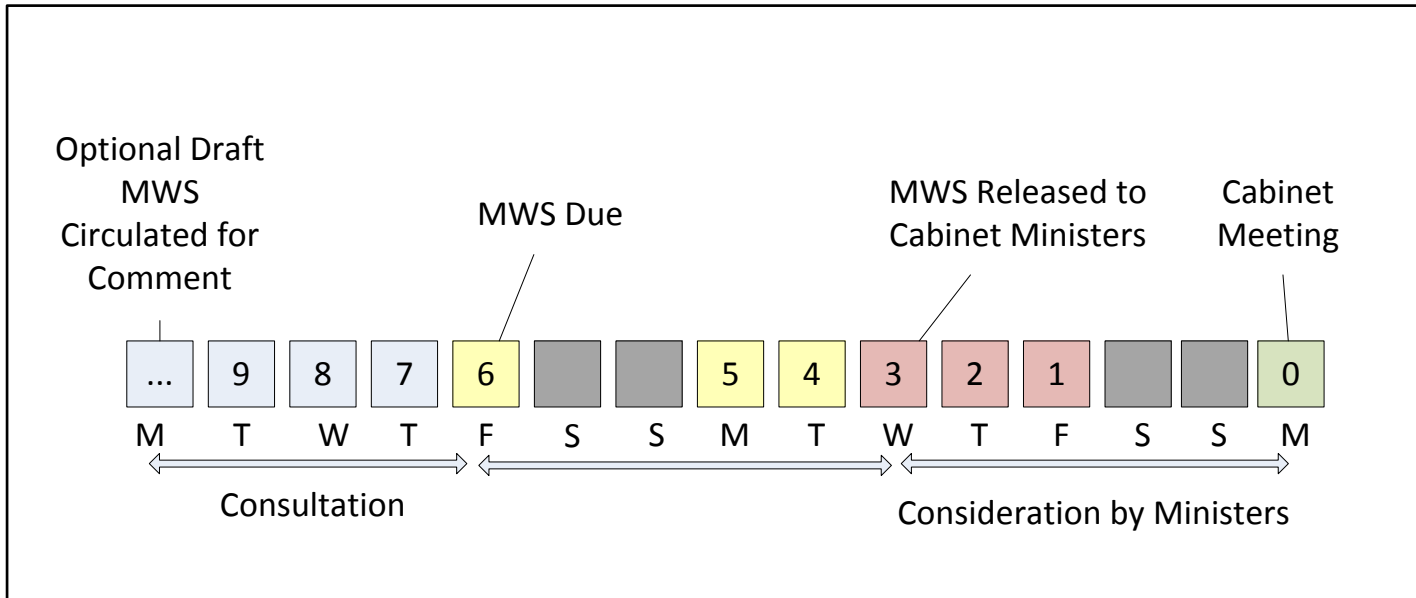


Figure 3: The First Pass Process

