



Australian
Capital Territory

ACT Government Cabinet Handbook

April 2002



ACT Government
Cabinet Handbook

APRIL 2002

TABLE OF CONTENTS

CHAPTER 1	
The Cabinet System	1
Background	1
Issues for Cabinet	1
Role of Cabinet Office	3
Definition of Cabinet Documents	3
Status and Custody of Cabinet Documents	4
Sequence of Handling Cabinet Matters	5
CHAPTER 2	
Cabinet Conventions and Principles	7
Collective Responsibility	7
Cabinet Confidentiality	7
Ministerial Responsibility for Proposals	8
Declaration of Interests	8
Pre- and Post-Election Period	8
Departmental Chief Executives	9
CHAPTER 3	
Cabinet Program and Business	10
Program of Meetings	10
Structure of Meetings	10
Agendas and Notices of Meetings	10
Cabinet Business Forecast	10
Timeframe for Receipt of Business Papers (Lodgement)	11
Attendance at Meetings	11
- Ministers	11
- Cabinet Officers	11
- Officials	12
CHAPTER 4	
Cabinet Decisions	13
Recording	13
Related Announcements	13
Circulation	13
Implementation	14
CHAPTER 5	
Security and Handling of Cabinet Documents	15
Background	15
Classification of Cabinet Documents	15
- Restricted Documents	15
Handling Procedures	15
Copying	16
Quoting	17
Movement	17
- Movement between Agencies	17
- Movement within Agencies	18
Storage	18
Destruction	19
- Electronic Copies	19

CHAPTER 6	
Access to Cabinet Documents	20
Access Generally	20
Documents Generated Outside an Agency	20
Documents Generated Within an Agency	20
Access by Courts and Investigatory Bodies	20
Access During the Election Period	21
Access to Cabinet Documents of Previous Governments	21
Access by Former Ministers	22
Access Under Legislation	23
Access by the Auditor General	24
CHAPTER 7	
Preparation of Cabinet Business Papers	25
Background	25
Objectives	25
Length of Submissions	26
Proforma Cover Page	26
Editorial Guidelines	26
Arrangement of the Body of a Submission	27
Issues	27
Consultation	27
- Stakeholder Interest	27
Recommendations	28
Optional Headings	28
- Background	29
- Options	29
- Risk	29
- Fairness and Opportunity	29
- Impact on Women	30
- Multicultural and Aboriginal and Torres Strait Islander Impact	30
- Consistency with Government Policies	30
- Employment Considerations	30
- Intergovernmental Relations	30
- Administration (Interstate Agreements) Act 1997	30
- Legal Aid Impact	31
- Regulatory Impact	31
- Public Sector Workforce Impact Statement	31
- Environment Statement	32
- Public Information Considerations	32
- Financial Implications	32
Attachments	33
Ministerial Statements	33
Corrigenda and Addenda	34

CHAPTER 8	
Consultation	35
General	35
Consultation with the Community	35
Formal Consultation	35
- Circulation	35
- Consultation Comments	36
- Inclusion of Consultation Comments in Submissions	36
Central Agency Consultation	37
Consultation with the ACT Legal Aid Office	37
Consultation with the Australian Federal Police	38
Consultation with Other Agencies	38
Consultation with External Bodies	38
Consultation with Caucus	38
CHAPTER 9	
Legislation	39
Background	39
General Requirements	39
Policy Approval (In-Principle Agreement to Draft Legislation)	40
Bills to be Submitted to Cabinet	40
The Bills Schedule	40
- Consultation	40
- Approval	41
Submissions Seeking Cabinet's Agreement to Introduce a Bill	41
Memorandum from the Parliamentary Counsel's Office	42
Technical Amendments Program	42
Exposure Drafts	43
Timing of Consideration by Cabinet	43
Post Cabinet Changes to a Bill	43
Referral to Caucus	43
CHAPTER 10	
Appointments	44
General	44
Appointments Schedule	44
Letter to the Chief Minister	44
Appointment Checks	45
Statutory Appointments Act 1994	45
Other Considerations	46
Remuneration	46
Representation	47
Appointment of Former Members of the Legislative Assembly	47
Consultation	47
Intergovernmental Consultation	48
Management of Appointments	48
Further Information	48
CHAPTER 11	
Lodgement of Cabinet Business Papers	49
Lodgement Status	49
Cabinet Office Requirements	49
Circulation of Lodged Documents	49

CHAPTER 12	
Role of Cabinet Liaison Officers	50
CHAPTER 13	
Ministerial Advisory Group	51
General	51
Attendance	51
Meetings	51
Agendas	51
Preparation of Papers	51
Distribution of Papers	52
APPENDIX A – Cabinet Submissions: The Drafter’s Guide	53
Contents	54
Introduction	55
General Principles	55
ACT Government Performance Measures for Policy Advice	56
Presentation Requirements for Submissions	57
– Basic Structure	57
– Submission Cover Page	57
– Proforma Cover Page	60
– Body of Submission	61
– Mandatory Headings	61
– Optional Headings	62
– Standard Recommendations	66
– Attachments	67
– Formatting and Layout Requirements	68
Corrigenda and Addenda	70
– Corrigenda	70
– Addenda	71
Timeline	72
APPENDIX B	
Sample Movement Record for Cabinet Documents	73
APPENDIX C	
Sample Distribution Record for Cabinet Submission	74
APPENDIX D	
Cabinet Appointment Form	75
APPENDIX E	
Cover Sheet for ACT Government Board and Committee Appointments	76

CHAPTER 1: THE CABINET SYSTEM

BACKGROUND

1.1. The *Australian Capital Territory (Self-Government) Act 1988* (Commonwealth) establishes the Australian Capital Territory Legislative Assembly and the Australian Capital Territory Executive. The Executive, which comprises the Chief Minister and other Ministers, has the responsibility of governing the ACT.

1.2. The Executive determines its policies through a Cabinet system of decision making, that is, through a system of regular meetings of all Ministers, chaired by the Chief Minister.

1.3. Cabinet is a forum in which Ministers, while working towards a collective position, are able to discuss proposals and a variety of options and views with complete freedom. Cabinet Decisions reflect collective conclusions and are binding on Cabinet Ministers as Government policy.

1.4. See also *Chapter 2 - Cabinet Conventions and Principles*.

ISSUES FOR CABINET

1.5. Cabinet considers all important questions of Government policy, administration and legislation. Matters which come before Cabinet include:

- a) policy issues, whether originating within the Government or from discussions with other Governments, including new policy items and variations to existing policies;
- b) budget formulation;
- c) matters which are primarily the responsibility of individual Ministers but which are likely to attract a greater than normal level of public attention;
- d) proposals which require new or amending legislation, including subordinate legislation where there are sensitive, whole of Government or cross portfolio considerations);
- e) matters in relation to parliamentary and other inquiries such as:
 - i) proposed references, submissions and responses to Legislative Assembly Committees (including variations of terms of reference and extensions of reporting dates and responses to reports of the Auditor General);
[In preparing Government action plans in response to Auditor General's reports, refer to the appropriate guidelines.]
 - ii) proposed ACT Government involvement in parliamentary inquiries conducted by Commonwealth or State Parliaments, where these require Cabinet agreement to new policy or have whole of government or cross-portfolio implications;
[See *Handbook on ACT Government Participation in Parliamentary and Other Inquiries* for further information.]

- f) matters which have a significant impact on either public or private sector employment or are likely to have a considerable impact on relations with the Commonwealth or other Governments, the labour movement, employer groups, community groups etc.;
- g) proposed ACT positions on international instruments (such as treaties) which raise major or politically sensitive policy issues of particular relevance to the ACT (ACT positions on other international instruments are to be settled by correspondence between the Chief Minister and the relevant Minister);
- h) appointments to statutory offices, and appointments to boards, commissions and advisory bodies which advise Ministers or Government;
- i) proposed Government positions on Private Members' Bills; and
- j) proposed Ministerial Statements and documents for presentation in the Legislative Assembly.

1.6. Consideration should be given to whether matters warrant Cabinet consideration. Where matters are to be referred to Cabinet for noting only, such as quarterly reports and progress reports, consideration may be given to circulation directly between Ministers, rather than through Cabinet.

1.7. Submissions to non-ACT Parliamentary and other external inquiries may also be agreed outside Cabinet, subject to the submissions being agreed by the Chief Minister and where the submissions simply express and do not deviate from previously agreed ACT Government policy. This includes submissions that simply state legislative and administrative arrangements operating in the ACT but raise no new policy issues.

1.8. Material for Cabinet consideration and decision is broadly grouped into four categories:

Policy Submissions - proposing policy and legislative matters;

Appointments Schedule - proposing appointments or re-appointments;

Bills Schedule - proposing Bills for presentation in the Legislative Assembly; and

Ministerial Statements Schedule - proposing Ministerial Statements to be made in the Legislative Assembly.

1.9. Submissions are brought before Cabinet by a sponsoring Minister or Ministers. Ministers are responsible for their own proposals, even though detailed development or drafting may have been done on their behalf by officers.

1.10. Note: issues associated with Administrative Arrangements Orders are matters for the Chief Minister to determine. Cabinet Submissions should not propose allocation or reallocation of functions involving changes to Administrative Arrangements. Any such proposals should be handled by correspondence from the Minister concerned to the Chief Minister.

1.11. Detailed advice on the preparation of Cabinet business papers is provided in *Chapter 7 - Preparation of Cabinet Business Papers* and *The Drafter's Guide* at Appendix A.

ROLE OF CABINET OFFICE

1.12. The Cabinet Office:

- a) provides administrative support for the Chief Minister and Cabinet;
- b) receives, processes and distributes all papers to be considered by Cabinet;
- c) circulates Cabinet Decisions and monitors their implementation through the Cabinet Decisions Implementation Register;
- d) assists the Chief Minister and the Secretary to Cabinet with the programming of Cabinet business and the setting of Agendas;
- e) liaises with and advises Agencies on Cabinet processes and requirements;
- f) maintains the registry of Cabinet documents for the current Government and preserves the Cabinet records of previous Governments;
- g) manages the release of accessible Cabinet records in accordance with the *Executive Documents Release Act 2001*; and
- h) provides editorial advice on Cabinet Submissions, particularly in regard to draft recommendations.

DEFINITION OF CABINET DOCUMENTS

1.13. For the purpose of this Handbook, Cabinet documents include:

- a) Agendas and Notices of Cabinet Meetings;
- b) Submissions to Cabinet and all documents considered by Cabinet, including copies lodged with the Cabinet Office and copies held elsewhere;
- c) Addenda and Corrigenda to Cabinet Submissions;
- d) documents which have been brought into existence for the purpose of being considered by Cabinet, including attachments to Submissions;
- e) legislation proposals, Bills, explanatory memoranda and presentation speeches;
- f) correspondence between Ministers and/or the Chief Minister which is submitted to Cabinet or which proposes matters to be raised in Cabinet including letters proposing appointments;
- g) Cabinet Decisions;
- h) Cabinet business schedules (Appointments, Bills and Ministerial Statements);
- i) copies of, or extracts from, documents referred to above; and
- j) Cabinet notebooks.

1.14. For the purpose of this Handbook, the following should be regarded as Cabinet-related documents and must be handled in the same manner as Cabinet documents:

- a) draft Cabinet Submissions, and other draft Cabinet documents;
- b) briefings prepared for Ministers on Cabinet documents and Cabinet related matters;
- c) consultation comments on draft Cabinet documents;
- d) reports or studies prepared within or for the ACT Government or the ACT Public Service which deal with significant or sensitive matters of policy and/or administration and which Chief Executives consider are likely to form the basis of a Cabinet document or an attachment to a Cabinet document; and
- e) all other minutes, correspondence between Ministers and other material which provides an insight into the deliberations of Cabinet.

1.15. For the purposes of the rules relating to access to Cabinet documents of previous Governments, a reference to a Cabinet document includes any other documents considered by the Executive as a whole - either as a part of a Cabinet meeting or otherwise. Detailed information relating to access to Cabinet documents is provided in *Chapter 6 - Access to Cabinet Documents*.

STATUS AND CUSTODY OF CABINET DOCUMENTS

1.16. A new series of Cabinet records is established for each Government. A Government may be regarded as a different or new Government if it contains one or more members drawn from a different political party to the previous Government. This is a decision for the Government of the day.

1.17. Cabinet documents are the property of the Territory, not of individual Ministers or Agencies. They are held on behalf of the Government in the custody of the Cabinet Office and made available to Ministers and Agencies for developing and implementing Government policy.

1.18. Cabinet documents held by Agencies and Ministers must be destroyed once the Minister or Agency no longer has a day to day need for them and, in any event, when a change of Government occurs.

1.19. In the case of Submissions, Corrigenda, Addendums and Decisions, a record of each document destroyed (including copy number) must be kept so that, if required, the holder may certify that destruction has occurred. The Cabinet Office provides a service to Ministers, former Ministers, and departments, under which timely access for reference is provided, as a matter of course, to replacement copies of documents that have been destroyed. Requests by former Ministers are to be made in writing to the Chief Executive, Chief Minister's Department. (See also paragraphs 6.19 - 6.29).

1.20. Further details regarding the handling of Cabinet documents is provided in *Chapter 5 - Security and Handling of Cabinet Documents*.

SEQUENCE OF HANDLING CABINET MATTERS

1.21. The sequence of handling Cabinet matters is covered in detail in this Handbook. A summary is provided as follows:

- a) A Minister initiates the requirement for a Cabinet Submission;
- b) The Agency Cabinet Liaison Officer (CLO) consults with Cabinet Office on such matters as format, timing and Cabinet requirements etc as necessary;
- c) The Agency develops a draft Submission with appropriate preliminary consultation, including with relevant external bodies (see Chapter 8 – in particular paragraphs 8.1 to 8.5 - consultation is an integral part of the development of a policy proposal from the **outset** through to the clearance of a final Submission).
- d) Following clearance by the Minister, the Agency CLO circulates the draft Submission to the Chief Minister's Department (including a separate copy marked to the attention of the ACT Multicultural and Community Affairs Group), the Department of Treasury, the Department of Justice and Community Safety and other Agencies as appropriate for consultation comment;
- e) *Circulation Timeframe*: **minimum 7 working days** unless the Secretary to Cabinet or the Cabinet Office agrees to a shorter period (not less than 3 working days);
- f) The initiating Agency takes account of consultation comments from other Agencies, seeks confirmation from these Agencies that their comments are properly reflected in the Submission, finalises the Submission, and submits it to the Minister for his/her approval and signature;
- g) The Chief Minister agrees to the inclusion of the proposed Submission during consideration of the draft Cabinet agenda submitted by the Cabinet Office;
- h) The Minister signs and dates the Submission and the agency CLO prepares copies for the Cabinet Office and other agencies as required;
- i) The Agency CLO forwards the original Cabinet Submission (unnumbered) and 15 copies to the Cabinet Office **by noon on the Monday** prior to the week in which the Submission is to be considered by Cabinet;
- j) The Submission is accompanied by a note advising how many copies of the Submission have been made and the intended recipients;
- k) The Cabinet Office clears the Submission for lodgement, registers it and circulates it to Ministers and within the Chief Minister's Department;
- l) The Agency CLO circulates copies of the final Submission to Agencies on a "need to know" basis taking account of the particular sensitivity of the subject matter involved. Copies are normally provided to portfolio Departments, and all other Agencies which were consulted during the preparation of the document. These copies should be delivered to the Cabinet Office and placed in the relevant pigeon holes, for collection by Agency couriers, at the same time as the Submission is lodged;

- m) The Cabinet Office prepares an Agenda which is circulated to Ministers and portfolio Departments following the Chief Minister's endorsement;
- n) Agencies prepare briefings/speaking notes for their Ministers as required;
- o) Cabinet generally meets on Mondays at 2.00 pm, or Tuesdays if the Monday is a public holiday;
- p) The Cabinet Notetaker records Cabinet's Decisions which are then prepared for signature by the Secretary to Cabinet;
- q) The Cabinet Office circulates Cabinet Decisions to Ministers and Agencies on a "need to know" basis;
- r) Ministers are responsible for the implementation of Cabinet Decisions within their portfolios;
- s) Cabinet Office monitors matters that should be referred to Cabinet at a later stage.

CHAPTER 2: CABINET CONVENTIONS AND PRINCIPLES

COLLECTIVE RESPONSIBILITY

- 2.1. The convention of the collective responsibility of Ministers for Government decisions is central to the Cabinet system of government.
- 2.2. Cabinet Decisions reflect collective conclusions and are binding on Cabinet Ministers as Government policy both outside the Party and within. All Ministers are expected to give their support in public debate to decisions of the Government. This Convention is based on the proceedings of Cabinet being private and Ministers providing to their colleagues adequate notice of matters to be raised in Cabinet.
- 2.3. Administrative procedures have been adopted to support the convention of collective responsibility. All Cabinet Ministers receive copies of all Cabinet documents, including Submissions, Notices of Meeting and Agendas, so that they may be aware of the business coming to Cabinet (subject to any specific arrangements to avoid a potential conflict of interest - see paragraph 2.12). All Ministers also receive copies of all Decisions, whether or not they were present at discussions.
- 2.4. Ministers should ensure that policy initiatives or expenditure commitments which do not have Cabinet authority are not announced. In exceptional cases where prior Cabinet clearance is not possible, proposed announcements must be cleared with the Chief Minister.
- 2.5. Ministers should not make public statements or comment on policy proposals which they are bringing, or which are to be brought, to Cabinet. Promotion in public of a particular line may pre-empt Cabinet deliberations. Identification of individual Ministers with particular views tends to call into question the collective basis of agreed outcomes. Each portfolio Minister is responsible for direction and public presentation of policy, and other Ministers should avoid separate policy stances becoming matters of public debate.
- 2.6. It is inappropriate for Ministers to accept invitations to speak or to comment publicly on matters outside their portfolios in circumstances which may involve disagreement - or which are likely to be construed as amounting to disagreement - with the conduct of another portfolio, without the prior concurrence of the appropriate Minister or the Chief Minister.
- 2.7. Departmental officers and Ministerial staff have a responsibility to act in support of Ministers' obligations to abide by Cabinet conventions, and a responsibility to advise Ministers in any case where they may perceive a breach, or likely breach, of these conventions.

CABINET CONFIDENTIALITY

- 2.8. Collective responsibility is supported by the strict confidentiality attached to Cabinet documents and to discussions in the Cabinet Room. Cabinet is the forum in which Ministers, while working towards a collective position, are able to discuss proposals and a variety of options and views with complete freedom. The openness and frankness of discussions in the Cabinet Room are protected by the strict observance of this confidentiality.
- 2.9. Having regard to the obligations imposed on Ministers by the conventions of collective responsibility and Cabinet confidentiality, officers should not seek from Ministers or Cabinet

officers information about the views of individual Ministers or about aspects of discussion in the Cabinet Room.

MINISTERIAL RESPONSIBILITY FOR PROPOSALS

2.10. Cabinet considers policy proposals that are brought before it by the relevant portfolio Minister. Ministers are responsible for the proposals they bring forward, even where detailed development or drafting may have been done on their behalf by officers.

DECLARATION OF INTERESTS

2.11. General information on declaration of interests may be found in the *Ministerial Code of Conduct* and the resolution of the Legislative Assembly requiring Members to provide the Speaker with a declaration of the private interests of themselves and their immediate family.

2.12. Ministers and Departmental Chief Executives at meetings of the Cabinet and committees must declare any private interests, pecuniary or non-pecuniary, held by themselves or members of their immediate families in matters under discussion, where those interests conflict or might conflict with their public duty as Ministers or Departmental Chief Executives. Any other matter which may give rise to a conflict between duty and interest must also be declared.

2.13. When considering whether there is a conflict, or a potential or apparent conflict, which should be declared, Ministers should adopt a broad interpretation of the requirement that they take into account the interests of family members and all interests of their own.

2.14. Generally, declarations should be made in all cases where an interest exists which could not be said to be shared with the rest of the community. Any such declarations will be recorded by Cabinet officers. It is then open to the meeting to excuse a Minister or Departmental Chief Executive from the discussion or to agree explicitly to his or her taking part. A Minister would withdraw from discussion of any proposal to appoint to a Government body a person who is a relative of that Minister.

2.15. In short, if Ministers and Departmental Chief Executives have any concern about a conflict or a potential conflict of interest in any area of their responsibilities they should advise the Chief Minister.

PRE- AND POST-ELECTION PERIOD

2.16. Successive ACT Governments have accepted that special arrangements apply with regard to the operation of Government business in the period immediately before and after an election for the Legislative Assembly. This period is commonly known as the ‘caretaker period’.

2.17. Guidelines on Arrangements to Apply in the Pre- and Post-Election Period are usually agreed by the Chief Minister at each election and are available from the Cabinet Office.

2.18. The pre-election period commences 37 days prior to the election and ends on the expiration of polling day for an election. In the ACT, by convention, the post election period ends when it is clear that the Government has been re-elected or when a new Chief Minister is elected.

2.19. By convention, Cabinet ensures that during the pre and post election period decisions are not taken which would bind an incoming Government and limit its freedom of action. For example, Cabinet avoids implementing major policy initiatives, making appointments of significance or entering into major contracts or undertakings without consultation with the Opposition. Cabinet would also avoid involving Agency officers in election activities.

2.20. The Executive may meet in the election period if this is necessary for the continuance of the normal business of Government, but the range of matters which may be considered is constrained by the conventions. Normally, efforts are made to clear necessary business prior to the caretaker period, thus avoiding the necessity for meetings during this time.

2.21 There are other established practices, usually regarded as being part of the caretaker conventions, which govern activities in the election period. These are mainly directed at ensuring that departments avoid any partisanship in the special circumstances of an election campaign and that Government resources are not directed to supporting a particular political party. They address matters such as the nature of requests that Ministers may make of their departments, procedures for consultation by the Opposition with departmental officers, travel by Ministers and their Opposition counterparts and the continuation of Government advertising campaigns.

2.22 Adherence to the conventions and practices is ultimately the responsibility of the Chief Minister. Where Ministers are in doubt about a particular matter, they should be raised with the Chief Minister or the Chief Executive of the Chief Minister's Department.

DEPARTMENTAL CHIEF EXECUTIVES

2.23 Cabinet conventions and principles outlined in this Chapter also apply to Chief Executives who are requested to attend Cabinet meetings. Consistent with the principle of Ministerial responsibility, Chief Executives may not bring forward submissions to Cabinet - this can only be done by a Minister.

CHAPTER 3: CABINET PROGRAM AND BUSINESS

PROGRAM OF MEETINGS

- 3.1. The Chief Minister determines the times of, and business for, all meetings.
- 3.2. Cabinet meets throughout the year, generally at 2.00 pm on Mondays. Meetings are arranged at other times, as required, at the request of the Chief Minister. The Cabinet Office advises on meeting dates, including any changes to dates and times, as required.

STRUCTURE OF MEETINGS

- 3.3. Policy items are listed on the Cabinet Agenda in the order of Ministerial seniority, that is, the Chief Minister's proposals first, then those of other Ministers as set out in the Administrative Arrangements Orders. Bills for introduction into the Legislative Assembly, Ministerial Statements and Appointments are dealt with after policy items as schedules to the Agenda. These schedules again reflect the order of Ministerial seniority.

AGENDAS AND NOTICES OF MEETINGS

- 3.4 Each week the Cabinet Office submits to the Chief Minister, for approval, a proposed Agenda for the Cabinet meeting to be held in the following week. The Cabinet Office must be informed of all proposed Cabinet business, through departmental Cabinet Liaison Officers, two weeks prior to the relevant Cabinet Meeting.
- 3.5 The proposed Agenda takes into account all types of Cabinet business, including items appearing on schedules. Generally, the Chief Minister approves the Agenda by Tuesday prior to the relevant meeting.
- 3.6 Requests for the addition of items to the Agenda after its approval by the Chief Minister should be made in writing by the relevant Minister to the Chief Minister and copied to Chief Executive of the Chief Minister's Department, as Secretary to Cabinet. Such requests should outline the reasons for the urgency of the item, including reasons why its consideration cannot be delayed to the next meeting and when the Submission is expected to be lodged. A revised Agenda, approved by the Chief Minister, is issued if any items are added or removed.

CABINET BUSINESS FORECAST

- 3.7. A three month forecast of Cabinet business is prepared monthly by the Cabinet Office based on advice from all Government Departments. The forecast is updated every month by Cabinet Liaison Officers. The forecast includes the title, critical date and proposed development timeframe for each forecast Cabinet item.
- 3.8. The Cabinet forecast forms the basis of the weekly Cabinet Agenda. In addition, the Cabinet Forecast is provided to Ministers for their information. All items on the forecast should be developed and submitted to Cabinet within the timeframe set out in the forecast. For this reason, the forecast date must be realistic and should take into account normal consultation and lodgement processes.
- 3.9. Certain Cabinet matters have specific deadlines for consideration. This includes Budget matters, legislative proposals, responses/submissions to Committee Reports and matters

requested by Cabinet. It is important that the progress dates for these items are met to ensure that the issue is considered in accordance with Government and Assembly requirements.

3.10. Chief Executives must sign-off on all Cabinet business forecasts, including updated forecasts.

TIMEFRAME FOR RECEIPT OF BUSINESS PAPERS (LODGEMENT)

3.11. As Cabinet normally meets on Monday afternoon, **the deadline for lodgement of Submissions is noon Monday** (or noon of the next working day where the Monday is a public holiday) **of the week before a Cabinet meeting.**

3.12. This rule will only be waived by the Chief Minister in exceptional circumstances on consideration of a written request by a Minister detailing the reasons for urgency and when the Submission is be expected to be lodged. All such letters should be copied to the Chief Executive of the Chief Minister's Department, as Secretary to Cabinet.

3.13. The Cabinet Office distributes Cabinet Folders to Ministers by noon on the Tuesday prior to the meeting, subject to clearance of the draft agenda by the Chief Minister. The Cabinet folders contain the approved Agenda, lodged Submissions and schedules. Any Submissions and schedule items not lodged at that time are identified in a covering 'folder letter' by the Director, Cabinet Office. Late Submissions are distributed as they are received by the Cabinet Office.

ATTENDANCE AT MEETINGS

3.14. Cabinet meetings are chaired by the Chief Minister and attended by all Ministers.

3.15. Also in attendance are the Chief Executive, Chief Minister's Department as Secretary to Cabinet and the Director, Cabinet Office as notetaker.

Ministers

3.16. Attendance at Cabinet meetings takes priority over all other commitments, apart from unavoidable Assembly commitments.

3.17. When a Minister is likely to be unavoidably absent from a meeting, leave is to be sought from the Chief Minister. Where appropriate, agreement should also be sought for another Minister to represent him or her for portfolio-specific items.

Cabinet officers

3.18. As noted in paragraph 3.11 above, the Secretary to Cabinet, or his or her nominee, attends all Cabinet meetings, accompanied by the notetaker who records the outcome of Cabinet discussions. They withdraw from meetings whenever Ministers wish to conduct private discussions.

3.19. Although the Secretary to Cabinet and the notetaker may take notes during discussions for the purpose of writing up Decisions, they do not keep a verbatim record of discussions. The Decisions are the official record of the meetings.

Officials

3.20. Officials (other than the Secretary to Cabinet and the notetaker) do not attend Cabinet meetings unless their attendance has been specifically requested by a Minister and approved by the Chief Minister. When it has been agreed that officials may be present, it is for the Minister who made the request to arrange for their attendance.

3.21. Officials are present only to aid their Minister and, through him or her, to provide advice to the meeting if requested. They are expected to explain factual or technical material on request, but not to participate in discussions. Officials normally leave the meeting before final outcomes are discussed. If their Minister leaves the Cabinet Room, officials normally withdraw. Officials do not represent Ministers in Cabinet.

3.22. Officials present at Cabinet are privy to discussions conducted on a basis of absolute confidentiality. There must be no disclosure outside the Cabinet Room of the nature or content of those discussions. Notes of the deliberations must not be made by officials.

CHAPTER 4: CABINET DECISIONS

RECORDING

4.1. Outcomes of Cabinet deliberations are recorded as Cabinet Decisions and numbered in series.

4.2. If a Minister has doubts about the accuracy of a Decision as recorded and circulated, those doubts should be drawn to the attention of the Chief Minister or the Secretary to Cabinet as soon as possible, rather than held over to be raised at a subsequent Cabinet meeting.

RELATED ANNOUNCEMENTS

4.3. The timing of a policy announcement is decided when Cabinet determines the policy, taking account of the Minister's proposed timing and method of announcement as shown in the Submission. These issues should be addressed under the heading 'Public Information Considerations' in the Submission.

4.4. In preparing documents for consideration by Cabinet, Ministers and officers should specifically consider what factual material and analysis embodied in those documents, or what other relevant material, might be made available to the public.

4.5. Any announcement, including media releases and statements in the Legislative Assembly, should refer to decisions of the Government, not of Cabinet.

4.6. Where the Prime Minister or a State Premier has to be informed (usually through the Chief Minister), or other preliminary action on a Cabinet Decision has to be taken, **it is the task of the responsible Minister** to see that this occurs before an announcement is made.

CIRCULATION

4.7. Each Minister receives a numbered set of Cabinet Decisions.

4.8. Cabinet Decisions are also circulated to Agencies which are specifically required to take action or have a "need to know". Initial circulation is likely to cover all the recipients of the relevant Submission. More extensive circulation may be organised on request to the Director, Cabinet Office.

4.9. Access by the Australian Federal Police to extracts from Cabinet Decisions is at the discretion of the Attorney-General. Such access would be coordinated by, and arranged through, the Cabinet Liaison Officer in the Department of Justice and Community Safety.

IMPLEMENTATION

4.10. Ministers are responsible for ensuring that appropriate action is taken on Cabinet Decisions affecting their portfolios. Their responsibility extends to all bodies within their portfolios - statutory and other authorities as well as Agencies.

4.11. Action may also be initiated by a Chief Executive on the Minister's behalf and/or by the Chief Executive of the Chief Minister's Department on the Chief Minister's behalf.

4.12. If a Cabinet Decision requires action in several portfolios, and if Cabinet does not direct otherwise, it is for the Minister who raised the matter in Cabinet to initiate follow-up procedures (usually by letter to other Ministers involved in implementing the Decision).

4.13. In order to facilitate the management of Cabinet business and to assist Ministers, the Cabinet Office monitors progress on the implementation of Decisions through the Cabinet Decisions Implementation Register (CDIR). Agencies will be asked to update the implementation status of Decisions annually. The updated CDIR is circulated by the Chief Minister for information and action where necessary.

CHAPTER 5: SECURITY AND HANDLING OF CABINET DOCUMENTS

BACKGROUND

5.1. Cabinet documents are defined in *Chapter 1 – The Cabinet System*. This Chapter deals with the handling of these documents, particularly Cabinet Submissions and Decisions.

5.2. Any unauthorised disclosure of Cabinet documents compromises the openness and frankness of discussions in the Cabinet Room. See *Chapter 2 - Cabinet Conventions and Principles*. Under section 10 of the *Crimes (Offences Against the Government) Act 1989*, disclosure of information which comes into a person's possession by virtue of that person being an officer of the Territory, where it is that officer's duty not to disclose such information, is a criminal offence.

CLASSIFICATION OF CABINET DOCUMENTS

5.3. All Cabinet and related documents, including documents that refer specifically to Cabinet Submissions or Decisions, are classified as "Cabinet-in-Confidence". They should be marked "Cabinet-in-Confidence" at the top and bottom of each page.

5.4. Cabinet documents are circulated on a strictly "need-to-know" basis. They must be stored in suitable secure containers at all times, unless in use.

Restricted Documents

5.5. Highly sensitive Cabinet documents may be given the additional classification "Restricted". This classification is applied on a case-by-case basis where the distribution of a document is to be restricted to a limited group of individuals (usually Chief Executives and Ministers).

5.6. The agreement of the Chief Minister or the Chief Executive of the Chief Minister's Department, as Secretary to Cabinet, is required prior to the application of this classification to draft Submissions, Submissions and Decisions. Written requests for papers to be restricted should detail the reasons for the proposed restriction and the extent of the proposed restriction on the circulation of papers. Where a Minister seeks the Chief Minister's agreement to the restriction of documents, the correspondence must be copied to the Chief Executive of the Chief Minister's Department, as Secretary to Cabinet. To aid in the ongoing management of Cabinet documents, the extent of any proposed restriction should be discussed with the Director, Cabinet Office (620 50230).

5.7. Documents classified "Restricted" are subject to all the other requirements set out in this Handbook, including those relating to the drafting of papers and the timeframes for circulation and lodgement.

HANDLING PROCEDURES

5.8. Cabinet documents are delivered to each Minister's office by a member of the Cabinet Office. From this time individual Ministers are responsible for the documents and their security.

5.9. Each Minister has the following particular responsibilities:

- a) to arrange for persons in his or her office to be custodians of Cabinet documents and to be responsible (to the Minister) for their security;
- b) to be satisfied that appropriate security arrangements are made in the Minister's office and Agency for the handling of Cabinet documents;
- c) to ensure that documents no longer needed are returned to the Cabinet Office for destruction; and
- d) to ensure that all Cabinet documents are returned to the Cabinet Office when the Minister vacates his or her Ministerial office.

5.10. When the Cabinet Office delivers Cabinet documents to Agencies, they will normally be delivered to the Agency's Cabinet Liaison Officer or to the office of the Chief Executive. All Cabinet documents must be signed for at the point of receipt.

5.11. Chief Executives will automatically assume responsibility for ensuring the security of Cabinet and related documents on receipt.

5.12. Chief Executives must ensure that:

- a) Cabinet documents are kept in safe custody;
- b) records are maintained of all officers given access to each Cabinet document; and
- c) Cabinet documents no longer needed are recorded and destroyed.

5.13. Should the Cabinet Office ask for:

- a) the return of documents; or
- b) records of destruction of documents; and
- c) the names of officers who have had access to particular documents,

this request is to be met immediately and in full.

COPYING

5.14. All copies of Cabinet Decisions and Submissions are numbered documents. With the exception of draft Submissions circulated for consultation comment (see paragraph 5.17 below), only the Cabinet Office and the originating Agency may copy Cabinet or related documents. If additional copies of Submissions and Decisions are required, they should be requested from the Cabinet Office.

5.15. Every Cabinet Submission which is produced by an Agency must be copied from the master copy onto paper which has the words "Cabinet-in-Confidence" printed in red both at the top and the bottom of the page. This includes attachments to Submissions.

5.16. All other Cabinet documents, including documents which refer to Cabinet matters, must be clearly marked "Cabinet-in-Confidence" at the top and bottom of each page.

5.17. Cabinet Liaison Officers may copy draft Submissions received from other Agencies for comment strictly for the purposes of facilitating consultation within their own Agency. Any copies made should be stamped "Copied by Cabinet Liaison Officer, ... (Agency Name)" as well as being clearly marked as "Cabinet-in-Confidence".

5.18. Cabinet Liaison Officers will be held responsible for the distribution of copies of draft Cabinet Submissions, for providing distribution records to the Cabinet Office (or the originating Agency for draft Submissions) as required, and for the destruction of the copies immediately after use.

QUOTING

5.19. Decisions of Cabinet should not be quoted exactly in other documents. Exact quotation is permitted in exceptional circumstances only. In conveying a Cabinet Decision in a subsequent document, the essence of the Decision should be summarised and referred to as a **Government decision**.

5.20. The means of conveying the essence of a Cabinet Decision to officers involved in implementation and follow-up action is a matter for determination within each Minister's office or Agency.

5.21. It may be appropriate to provide a summary of a Cabinet Decision, or, where precision is essential, to quote the actual words of the relevant part of the Decision. Decisions may not be copied, and are to be circulated strictly on a "need to-know" basis.

5.22. Any document containing specific reference to Cabinet should be marked "Cabinet-in-Confidence", stored in a secure manner, distributed on a "need-to-know" basis and accorded the same level of protection due to the original document. This includes documents which: quote a Decision or Decision Number; contain reference to a matter to which Cabinet consideration will or is being sought, or; contain reference to previous Cabinet consideration of a matter.

MOVEMENT

5.23. It is the responsibility of Agencies to ensure that Cabinet and related documents, including consultation comments on draft Submissions, are not electronically transmitted over an unsecured circuit through a facsimile machine or computer network.

Movement between Agencies

5.24. All Cabinet and related documents are to be hand delivered and double enveloped; with "Cabinet-in-Confidence" stamped on the inner envelope and with no marking on the outer envelope which could reveal that sensitive material is enclosed.

5.25. With the exception described below, Cabinet and related documents are to be transmitted between Agencies via the Cabinet Liaison Officer network only. Where particularly urgent documents are being circulated, the responsible officer should telephone the relevant Cabinet Liaison Officer to advise them of that urgent document.

5.26. In exceptional circumstances, draft Cabinet Submissions may be circulated electronically from Cabinet Liaison Officer to Cabinet Liaison Officer only using the procedures established with the Cabinet Office. Restricted or particularly sensitive draft Submissions (such as Budget papers) may not be circulated electronically. It is recognised, however, that some documents (such as draft Bills) which are being drafted for Cabinet consideration may need to be distributed electronically for practical purposes. In such circumstances the Bills should be clearly labelled "Draft" and be password protected.

5.27. On rare occasions it may be impracticable to circulate Cabinet documents through the Cabinet Liaison Officer network due to the timing of circulation or where Chief Executives only are being consulted. On such occasions, a record of officers who have received Cabinet documents in this fashion should be maintained by the originating Agency.

5.28. Cabinet Liaison Officers must provide the Cabinet Office with a list of all Agencies consulted in relation to each draft submission. This list is to be provided at the time the draft Submission is provided to the Cabinet Office for comments from the Chief Minister's Department.

5.29. It is also good practice to maintain a separate filing and recording system for draft Submissions etc. received from other Agencies.

Movement within Agencies

5.30. Procedures for the circulation of Cabinet and related documents within Agencies should comply with the following standards:

- a) circulation must be to nominated officers only and in a way that allows the maintenance of a record of each person who has had access to a Cabinet or related document;
- b) where the courier and double envelope system is not used, officers who have been nominated to have access to such documents must transmit them personally to similarly nominated officers only;
- c) documents may only be passed by hand to officers to whom access has been nominated - they are not to be left on desks or in in-trays; and
- d) Agencies must be in a position to advise the Cabinet Office at short notice of the names of every person within an Agency who has had access to any given Cabinet or related document.

STORAGE

5.31. All Cabinet and related documents are to be:

- a) held separately from other working documents (in Cabinet-in-Confidence files);
- b) stored in suitable secure containers at all times unless actually in use (Note: departmental security managers should be consulted on appropriate storage arrangements.); and
- c) destroyed when no longer in day to day use, either by shredding or through the confidential waste system.

DESTRUCTION

5.32. When Cabinet documents are no longer required by Ministers or Agencies, they should be returned to the Cabinet Office or destroyed by the relevant Cabinet Liaison Officer. **All Cabinet documents held by a Minister are to be returned to the Cabinet Office for destruction when the Minister vacates their office, or a change of Government occurs.**

5.33. As a guideline:

- a) documents should be shredded, or where the volume of documents to be destroyed makes this prohibitive, secure destruction should be arranged through a firm nominated by the Cabinet Office;
- b) destruction of documents is only to be arranged by the Cabinet Liaison Officer;
- c) records of destroyed documents must be kept, including the relevant Submission or Decision number, as well as the copy number; and
- d) Cabinet Liaison Officers must provide a copy of records of documents destroyed to the Cabinet Office.

5.34. Cabinet Office retains a full set of all Cabinet documents. Where documents have been destroyed, the former holder can readily obtain a replacement copy of the current Government's Cabinet documents from the Cabinet Office should the need arise.

5.35. The Cabinet Office provides a service to Ministers to arrange destruction of their Cabinet documents. Ministers may use the 'refresh memory' access arrangements to gain access to copies of Cabinet documents which they would have seen as Ministers (see *Chapter 6 – Access to Cabinet Documents*).

Electronic copies

5.36. The above rules apply equally to electronic versions of Cabinet documents. All electronic versions of Cabinet documents, including relevant drafts, should be deleted from the system once they have been considered by Cabinet. This also applies to any associated briefing material. Officers may be asked to sign off that this has occurred.

CHAPTER 6: ACCESS TO CABINET DOCUMENTS

ACCESS GENERALLY

6.1. **Access by officers to Cabinet and related documents must be on a strict "need to know" basis.**

6.2. A record is to be kept of persons who have had access to each Cabinet document. This requirement can be met effectively by placing each document inside a distinctive folder and attaching to the inside cover a movement record sheet along the lines of that provided at Appendix B.

6.3. Each Agency must keep a complete written record of all officers who have had access to Cabinet documents, whether in draft or final form, and whether prepared by the Agency or provided by another Agency for consultation purposes.

DOCUMENTS GENERATED OUTSIDE AN AGENCY

6.4. Chief Executives or their nominees should nominate, on a case by case basis, those officers within their Agencies to whom access to particular Cabinet and related documents which are generated outside their Agency will be limited.

6.5. As a guide, it is expected that only relevant executive officers, relevant senior officers, and Cabinet Liaison Officers will have access to such documents.

DOCUMENTS GENERATED WITHIN AN AGENCY

6.6. With regard to documents created within each Agency it is recognised that somewhat different procedures will apply. Accordingly, at the commencement of the preparation of Cabinet documents, the relevant Executive should nominate those officers within the Agency to whom access will, in the first instance, be limited.

6.7. Where it is considered necessary to circulate a document more widely within an Agency during its development, then an appropriate senior officer (usually at Chief Executive or Director level) should nominate those outside the originating area to whom access should be limited.

ACCESS BY COURTS AND INVESTIGATORY BODIES

6.8. All requests for access to any Cabinet document received from any source outside the usual Ministerial or Agency system must be referred to the Chief Executive, Chief Minister's Department. This includes requests from, for example, a court, a Board of Inquiry under the *Inquiries Act 1991*, the Auditor General or any other investigatory body.

6.9. The Cabinet Office must be advised whenever such requests are received or whenever they are foreshadowed by an Agency or its legal advisers.

6.10. Consultation must take place with the Chief Executive, Chief Minister's Department before consideration is given to claiming "public interest immunity", or the like, in respect of Cabinet documents and should be additional to any consultations with legal advisers.

6.11. Claims of immunity in respect of Cabinet documents should be made only by a Minister - normally the Minister responsible for originating the documents - in consultation with the Chief Minister, or by the Chief Executive, Chief Minister's Department, in cases involving Cabinet documents of former Governments.

6.12. Where it is decided that a request for access should be granted, this should be arranged through the Cabinet Office. The Cabinet Office will arrange for appropriate copies of Cabinet documents to be made. In certain circumstances, the Cabinet Office may arrange for the relevant Cabinet files to be inspected by an investigatory body. These should not be provided by Agencies directly.

ACCESS DURING THE ELECTION PERIOD

6.13. Access to Cabinet documents during an election period will not be granted except in extraordinary circumstances. The election period begins on the first day of the pre-election period and ends when the result of the election is declared. The pre-election period commences 37 days prior to the election and ends on the expiration of polling day for an election. In the ACT, by convention, the post election period ends when it is clear that the Government has been re-elected or when a new Chief Minister is elected. If the need for access cannot be delayed, the concurrence of the Chief Minister will be sought due to the possibility of a change of Government.

ACCESS TO CABINET DOCUMENTS OF PREVIOUS GOVERNMENTS

6.14. Cabinet documents (including any other documents considered by the Executive as a whole - either as a part of a Cabinet meeting or otherwise) are confidential to the Government which created them. Access by succeeding Governments is not granted except with the approval of the current leader of the political party that formed that previous Government (also see Section 6.30 for public access to Cabinet documents after 10 years under the *Executive Documents Release Act 2001*).

6.15. Requests for Cabinet documents of a previous Government must be referred to the Chief Executive, Chief Minister's Department.

6.16. Before each Legislative Assembly election, Agencies should ensure that all Cabinet documents held by them are accounted for and stored so that access can be controlled appropriately. If the Government is returned, the documents can be made available again in accordance with normal practice. If there is a change of Government, Cabinet documents of the previous Government held by Agencies and Ministers must be destroyed.

6.17. Continuity of administration may necessitate reference to Cabinet documents of former Governments. To ensure such continuity, Agencies may provide Ministers with summaries of facts and operative Decisions necessary for an understanding of current issues - including, if essential to that understanding, summaries of Cabinet Decisions of a previous Government, though not the Decisions themselves.

6.18. Where, for the sake of administrative efficiency, Agencies need access to Submissions of a previous Government, these are to be sought in writing from the Chief Executive, Chief Minister's Department. Agencies are not to pass on these documents to other Agencies.

ACCESS BY FORMER MINISTERS

6.19. It is a commonly accepted convention that former Ministers are entitled to special access to "refresh their memories" of Cabinet and other official documents with which they dealt personally while in office. In recognition of the particular needs of the political process in the ACT, rights of special access have been extended to the leader of the political party in the Assembly that formed a previous Government and to former Heads of Government. These are described fully at Paragraph 6.24.

6.20. Former Ministers may approach the Chief Executive, Chief Minister's Department, if they wish to seek special access to documents under this convention.

6.21. It is not expected that these requests should comply with a standard format. However, it is necessary that they describe as precisely and clearly as possible the records to which access is sought in order to enable accurate identification. The application should also indicate whether or not publication is intended.

6.22. The Chief Executive, Chief Minister's Department, also coordinates requests for special access to other official records by former Ministers for the purpose of refreshing their memory and will consult as necessary with other Agencies and Ministers currently occupying portfolios relevant to a request.

6.23. All requests for special access to the records of the Legislative Assembly or Assembly committees are to be referred to the Clerk of the Assembly.

6.24. Access to the Cabinet documents on a "refresh memory" or special basis can be requested by the following classes of persons:

- a) Former Ministers, whether currently Members of the Legislative Assembly or not, in relation to those Cabinet and other deliberative documents that they sponsored, or personally dealt with, as Minister;
- b) The current leader of the political party in the Legislative Assembly that formed a previous Government in relation to Cabinet and deliberative documents of that previous Government; and
- c) Any former Chief Minister, whether a Member of the Legislative Assembly or not, in relation to all Cabinet and deliberative documents of the previous Government which he or she led.

6.25. In considering a "refreshment of memory" or special access request, the categories of records to which access should be granted would include:

- a) all Cabinet material which the former Minister had personally dealt with or seen or could reasonably be presumed to have personally dealt with or seen in the course of his or her official duties;

- b) correspondence sent to or received from the former Minister which was personally dealt with or seen by the former Minister, or which could reasonably be presumed to have been personally dealt with or seen by the former Minister in the course of his or her official duties;
- c) Agency Submissions which the former Minister had personally dealt with or had seen or which could reasonably be presumed to have been personally dealt with or seen by the former Minister in the course of his or her official duties; and
- d) any other Agency records which, having regard to the nature of the records, are likely to have been seen by the former Minister in the course of his or her official duties.

6.26. Access will be provided by inspection of original documents on agency premises or, where permitted, the provision of official photocopies. Under “refreshment of memory” arrangements, original Cabinet documents may only be viewed at the Cabinet Office and may not be removed from the Cabinet Office.

6.27. If a former Minister (or other person described in paragraph 6.24) who has sought access believes good reasons exist why photocopies should be provided, he or she may put such reasons in writing to the Chief Executive, Chief Minister's Department. The Chief Executive, Chief Minister's Department, will then decide whether photocopies can be provided and impose any conditions on the provision of copies as the Chief Executive considers necessary.

6.28. The decision and conditions, if any, will be provided in writing to the special access recipient by the Chief Executive, Chief Minister's Department.

6.29. Where the intention behind a request for special access is to prepare a work for publication, the Chief Executive, Chief Minister's Department, may require that the manuscript be submitted for examination as a condition of that access. The need for such a requirement will depend on:

- a) the degree of sensitivity (both personal and security classified) present in the records to be made available; and
- b) other sensitivities associated with the particular events documented in the records and with the personalities involved.

ACCESS UNDER LEGISLATION

6.30. The *Executive Documents Release Act 2001* provides for general access to Cabinet documents 10 years after they have been considered by Cabinet. The Act provides for the publication of a list of accessible Executive documents which is updated on the 1st of July each year.

6.31. Under the *Executive Documents Release Act 2001*, an Executive document means –

- (a) an official record of a meeting of the Executive; or

(b) a document that was:-

- (i) formally submitted by a Minister to a meeting of the Executive for its consideration in relation to a matter on the official record; and
- (ii) created for that purpose; or

(c) part of a document mentioned in paragraph (a) or (b) above.

Accessible Executive documents are those which have reached their earliest release day - that is the next 1 July, 10 years after the document's submission day. Accordingly, under the Act, at 1 July each year, Executive documents created more than 10 years before that day become accessible.

6.32. Documents released under the *Executive Documents Release Act 2001* are subject to release restraints contained in the *ACT Freedom of Information Act 1989* to protect the legitimate interests of the public, the ACT Government and third parties who deal with the ACT Government. A list of accessible documents is available on the ACT Government website.

6.33. All requests for access to documents under the *Executive Documents Release Act* are coordinated by the Cabinet Office. Further information concerning access under the *Executive Documents Release Act* can be obtained from the ACT Government website or by contacting the Cabinet Office.

6.34. The *Freedom of Information Act 1989* also creates a general right of access to information in documentary form in the possession of Ministers and agencies. The Department of Justice and Community Safety can provide further advice on the *Freedom of Information Act*.

ACCESS BY THE AUDITOR-GENERAL

Investigations

6.35. The Auditor-General under the *Auditor-General Act 1996* may, from time to time, require access to particular Cabinet documents for the purposes of investigating a particular term of reference.

6.36. All requests for such access should be directed to the Chief Executive, Chief Minister's Department. It is not expected that these requests should comply with a standard format. However, it is necessary that they describe as precisely and clearly as possible the records to which access is sought in order to enable accurate identification.

6.37. Any copies of Cabinet documents provided pursuant to this arrangement must not be copied further, and must be returned to the Cabinet Office for destruction on completion of the investigation.

Audit

6.38. The Auditor-General may also require access to Cabinet-related documents for the purposes of auditing Cabinet function outputs if detailed in Budget papers. Where records are kept for these purposes, the records may be made available to the Auditor-General, however, the documents that sit behind the records may not be made available except with the agreement of the Chief Executive, Chief Minister's Department.

CHAPTER 7: PREPARATION OF CABINET BUSINESS PAPERS
--

BACKGROUND

7.1. *Chapter 1* outlines matters considered by Cabinet (in particular, see paragraph 1.5). As previously discussed, material for Cabinet consideration is grouped into four categories:

Policy Submissions - proposing policy and legislative matters;

Appointments Schedule - proposing appointments or re-appointments;

Bills Schedule - proposing Bills for presentation in the Legislative Assembly; and

Ministerial Statements Schedule - proposing Ministerial Statements to be made in the Legislative Assembly.

7.2. This Chapter outlines the requirements for the preparation of Cabinet Submissions. Further guidance is provided in *The Drafter's Guide* at [Appendix A](#).

OBJECTIVES

7.3. Cabinet is the core decision-making forum for government policy. Most matters considered by Cabinet are complex and involve the weighing of many, often conflicting, factors. For this reason Submissions must be of the highest possible standard. Submissions should canvass all relevant considerations and information to assist Cabinet in making considered decisions for the good government of the Territory.

7.4. Because of the significant workload and pressures borne by Ministers, it is important that Submissions:

- a) be presented in a consistent format that facilitates consideration and, through its familiarity, enables Ministers to turn readily to particular sections during discussions;
- b) put forward an agreed basis of facts upon which discussion can proceed;
- c) indicate realistic policy options and the implications of these options;
- d) identify the essential issues succinctly, clearly and in sufficient detail to facilitate considered decision-making; and
- e) are checked meticulously for accuracy in all details of fact (in particular, citation of legislation and previous Cabinet Decisions) and in respect of typing and spelling.

7.5. It is in line with these objectives that the format of Submissions has been standardised and the requirement made that certain considerations are always addressed (for example, issues, costs, and results of consultation with interested parties and Agencies). Submissions which do not meet these requirements are likely to receive adverse consultation comment and may be returned to the originating Agency for amendment.

7.6. To ensure that Submissions, both at the draft and final stage, are of the highest possible quality, a final check for readability and accuracy should be made by the Cabinet Liaison Officer before circulation and lodgement.

LENGTH OF SUBMISSIONS

7.7. The body of a Submission, including its recommendations, should be limited to **five pages at one and a half line spacing**. This limit does not include the proforma cover page.

7.8. In exceptional circumstances, where a more lengthy Submission is considered warranted due to the complexity of the subject matter, there should be consultation with the Cabinet Office, and an agreed position reached.

7.9. The body of the Submission must be self-contained and cover all the major issues about which decisions are to be made. Extensive discussion about matters which are agreed should not be included.

7.10. Where essential, background material and detailed supporting information may be presented in attachments to the Submission. Attachments should be summarised and referred to in the Submission and should not be used as a substitute for the presentation of material which is essential for Cabinet's consideration.

PROFORMA COVER PAGE

7.11. The proforma cover page must appear at the front of every Submission. As much information as possible should be included on this page against the relevant entries to provide Ministers with an overview of the Submission. This allows the body of the Submission to be used to develop the case for the recommendations. In particular, full use of the "Purpose/Issues" and "Urgency" entries can reduce the need for extensive background and explanatory statements in the body of the Submission.

7.12. All entries listed on the cover page should be considered and completed, where appropriate with the words "**Not applicable**". Where necessary, cross references to the body of the Submission should be provided. There must be complete consistency between entries on the cover page and the body of the Submission.

7.13. The cover page is available electronically from the Cabinet Office. Detailed guidance regarding the completion of the proforma cover page is provided in *The Drafter's Guide* at [Appendix A](#).

EDITORIAL GUIDELINES

7.14. For the purposes of consistency in presentation, so as to facilitate easy reference by Ministers, a number of specific editorial rules (e.g. page and paragraph numbering) must be observed in preparing Cabinet Submissions. These are set out in *The Drafter's Guide* at [Appendix A](#).

ARRANGEMENT OF THE BODY OF A SUBMISSION

7.15. The following *mandatory headings and sections* must be used in the body of every **Submission**:

- a) Issues;
- b) Consultation; and
- c) Recommendations.

ISSUES

7.16. Relevant issues only are examined in this section. Presentation should be logical and concise, enabling Ministers to focus immediately upon the issues they have to consider and the matters to be decided. All relevant information and considerations should be outlined under this heading.

7.17. The text should concentrate on those considerations crucial to reaching a well-considered decision. Points of detail can be covered in attachments to the Submission, including in a Regulation Impact Statement (see paragraphs 7.45-7.46), where necessary. In addition, the sponsoring Minister can cover points of detail in discussion, if questions are raised.

CONSULTATION

7.18. Submissions must adequately reflect and record the results of consultation. This heading should be used to summarise the results of consultation, including any major issues and remaining differences of view. **The formal written comments of all Agencies should be attached to the final Submission.** [Detailed guidelines regarding consultation are set out in *Chapter 8 – Consultation.*]

7.19. Submissions ideally should present agreed proposals. Initiating Ministers and Agencies should be prepared to amend the text of a draft in response to suggestions. As part of the process of finalising the Submission, it is the responsibility of the originating Agency to ensure that Agencies consulted agree with the manner in which their positions have been portrayed and accommodated. This heading may be used to summarise significant amendments made to the Submission as a result of consultation.

7.20. **Where agreement is not reached between agencies and the recommendations do not represent a consensus of the views of those consulted, the proforma cover page should indicate clearly that there is not agreement and the Submission must address the differences of view under this heading.**

Stakeholder Interest

7.21. Submissions should address the views and likely reaction of stakeholders outside Government, especially where these views are strategically important. This may include business reaction identified through the development of a Regulation Impact Statement. The political context or environment should also be outlined for Cabinet's information.

RECOMMENDATIONS

7.22. A comprehensive and concise statement of all recommendations for which approval is sought must appear at the end of a Submission. **The language and format should reflect the Cabinet Decision that is being sought.** Recommendations should ask Cabinet to either **agree** to a course of action or **note** a set of facts or circumstances. The Cabinet Office can advise on the appropriate form of recommendations.

7.23. Special care should be taken to ensure that the recommendations are comprehensive, i.e. they cover all proposals advanced in the Submission for which Cabinet agreement is required. All issues dealt with in the recommendations must be fully supported by the Submission. The recommendations must stand-alone and not merely say that approval is sought for proposals as outlined in the Submission.

7.24. Recommendations must spell out the actions or policies proposed and not merely act as a sign-post to attachments. If references to attachments are unavoidable they should be used sparingly and precisely, giving the flavour of the attachments.

7.25. The recommendations must include any proposals for Cabinet to authorise a statement or note the terms of a media release and the timing of it after the Decision has been made.

7.26. Recommendations should not propose changes to the Administrative Arrangements Orders as these are for the Chief Minister to determine. Any proposals for such changes should be handled by correspondence from the Minister concerned to the Chief Minister.

7.27. Standard wording of recommendations for a number of frequently occurring types of Cabinet business is included in *The Drafter's Guide* at Appendix A. This includes recommendations for the presentation or tabling of papers in the Legislative Assembly.

OPTIONAL HEADINGS

7.28. In addition to the mandatory sections (see paragraph 7.16), a number of other issues may benefit from being addressed in the body of the Submission. These may fall under the following ***optional headings***:

- a) Background;
- b) Options;
- c) Risk;
- d) Fairness and Opportunity;
- e) Impact on Women;
- f) Multicultural and Aboriginal and Torres Strait Islander Impact
- g) Consistency with Government Policies;
- h) Employment Considerations;

- i) Intergovernmental Relations;
- j) Legal Aid Impact;
- k) Regulatory Impact
- l) Public Sector Workforce Impact Statement
- m) Environment Statement
- n) Public Information Considerations; and
- o) Financial Implications.

Background

7.29. Previous consideration of the subject by Cabinet or, for example, by an Assembly Committee, must be referred to, and any other relevant background information should be summarised.

7.30. Cabinet Decisions must not be attached to a Submission but may be quoted, paraphrased or summarised. Note, however, that **a Submission must never make any reference to Cabinet Decisions of a previous Government.**

Options

7.31. While clearly favouring preferred recommendations, Submissions should outline options for Cabinet's consideration. The principal practicable options open to the Government are set out in this section. This need not be done when the only feasible options are to undertake a particular course of action canvassed in the Submission or not to do so.

Risk

7.32. Submissions should clearly outline the range and extent of uncertainty and/or risk associated with proposals. This may include legal or financial risk, such as: breach of contract; exposure to financial liability or legal suit; and risk to the ACT economy. Risk may also include risk to persons or property, such as: risk to public safety; and risk to private or public property interests. The risk of unfavourable public comment may be addressed under this heading or under Consultation.

Fairness and Opportunity

7.33. Issues to be addressed under this section might range from fairness and opportunity concerns through to general political concerns.

7.34. The section may cover consultation with community groups and non-Government organisations, their likely reaction to the proposals, and the impact of the proposals on access to Government services and on different community groups and clients.

Impact on Women

7.35. This section should be prepared by the drafting agency and discuss how the proposals would affect and impact on women. Information relating to any consultations with relevant women's organisations should also be provided. All Draft Cabinet Submissions will be assessed by the ACT Office for Women, within the ACT Multicultural and Community Affairs Group, Chief Minister's Department, for gender impact.

7.36. Drafters should be aware of the Government's policy to continue the program of consultation with women in the community sector and to extend those consultations to women in business, education, science, the arts, media, law and information technology.

Multicultural and Aboriginal and Torres Strait Islander Impact

7.37. These sections should discuss how the proposal would affect and impact on the specific needs of people from culturally and linguistically diverse backgrounds, and Aboriginal and Torres Strait Islander people respectively. Information relating to any consultations with relevant community organisations should also be provided. All Draft Cabinet Submissions will be assessed by the Multicultural Affairs Unit and the Aboriginal and Torres Strait Islander Affairs Unit within the ACT Multicultural and Community Affairs Group.

7.38. Submissions should reflect the Government's policy of ensuring that consultations are held with multicultural and Aboriginal and Torres Strait Islander communities to enable an on-going assessment of the adequacy, relevance and performance of Government programs and services targeted to those communities.

Consistency with Government Policies

7.39. Where a Submission seeks to implement an aspect of the Government's election platform, this should clearly be identified by reference to the relevant policy. Correspondingly, where a Submission proposes a departure from the Government's election platform or other key statement of policy, this should also be identified. This should also be reflected on the cover page.

Employment Considerations

7.40. Significant effects of the proposals (if adopted) on employment in either the public or private sector are to be stated.

Intergovernmental Relations

7.41. Any implications for Commonwealth, State or local governments are to be referred to in the Submission, and negotiations proposed (or already held) are to be mentioned. In this context, it is important to highlight and explain any difference with NSW practice, and the implications for cross-border relations.

Administration (Interstate Agreements) Act 1997

7.42. The *Administration (Interstate Agreements) Act 1997* imposes a duty on Ministers to inform Members of the Legislative Assembly **and** consult with relevant Standing Committees of the Assembly about negotiations for intergovernmental agreements which could be expected to require legislation to be passed by the Legislative Assembly.

7.43. Where a Submission concerns these types of agreements, this should be specifically noted in the Submission. The Cabinet Office should be consulted regarding the specific requirements of the Act.

Legal Aid Impact

7.44. Where implementation of proposals would have an impact on the demand for legal aid services, this should be fully addressed in the Submission, including budgetary implications. See consultation arrangements with the ACT Legal Aid Office set out in *Chapter 8*.

Regulatory Impact

7.45. Where any new or amended law or government direction is proposed, a Regulation Impact Statement must be completed as part of the policy development process. All proposals of a regulatory or legislative nature or that refer to restrictions on competition or to trade practices risks must have a Regulation Impact Statement. The completion of a Regulation Impact Statement provides an opportunity to analyse the implications of policy proposals. The Submission must address the issues raised by this process and the Regulation Impact Statement should be attached to the Submission. Advice on developing a Regulation Impact Statement is found in *A Guide to Regulation in the ACT*, available from the Microeconomic Reform Section, Department of Treasury (620 70290).

7.46. Submissions should indicate whether the policy proposed may have an impact (or potential impact) on business activity or development in the ACT. Many policy and regulatory initiatives affect business, either directly or indirectly. The Business Support and Employment Unit, Chief Minister's Department (620 72004) should be consulted regarding the impact of proposals on business, in addition to consultation with the Microeconomic Reform Section, Department of Treasury.

Submissions should also indicate whether their recommendations have any competition policy implications. The ACT has agreed that it will not engage in anti-competitive conduct. A proposal may restrict competition in a variety of ways. Agencies should consult with the Microeconomic Reform Section, Department of Treasury (620 70290) if there is any doubt as to whether a policy proposal may have competition policy implications.

Public Sector Workforce Impact Statement

7.47. Cabinet should be advised of the workplace relations and budgetary implications of proposals. A Public Sector Workforce Impact Statement should be provided if a proposal will result in a net increase or decrease in labour usage by the Government (including staff, officers, temporary staff and contractors) or a net increase or decrease in spending on labour by the Government. Such a Statement should be used to address any change in the nature of employment arrangements (for example, from full-time to part-time, from staff to contractors). Any predicted community or stakeholder reaction to changed labour usage should also be addressed in such a Statement. The Submission must assess the staffing implications of proposed new or expanded or reduced government functions. Further information may be obtained from the Manager, Workplace Relations, Chief Minister's Department (620 76207). Note: this topic should also be addressed in a Regulation Impact Statement.

Environment Statement

7.48. The Government has a commitment to ecologically sustainable development under the Intergovernmental Agreement on the Environment. Consistent with this commitment, Cabinet Submissions should include an Environment Statement. Such a statement should be provided if a policy proposal will have immediate or possible future consequences on the environment. Note: this topic should also be addressed in a Regulation Impact Statement.

Public Information Considerations

7.49. Where implementation of proposals would entail a public information program, the Submission should give a brief outline of the proposed nature and level of activity and the estimated cost.

7.50. If a media statement is appropriate, then a draft press release must be attached to the Submission for Cabinet's endorsement.

Financial Implications

7.51. Submissions must address any changes the proposals would make to the Budget in the current fiscal year and the Forward Estimates in terms of both revenue and expenditure, in particular:

- a) the estimated costs and revenue implications of the options (to be determined in consultation with the Department of Treasury);
- b) the period over which expenditure and revenue would occur;
- c) the estimated cost and revenue in the current fiscal year and for the Forward Estimates;
- d) proposed expenditure and revenue which have already been incorporated in the Budget or the Forward Estimates; and
- e) whether offsetting savings are proposed and the implications of achieving such savings.

7.52. A summary of the revenue, expenditure and savings information must appear on the proforma cover page. If there are no revenue or expenditure implications, and the entry on the Cover Page is "Nil" accordingly, then there is no need for a separate section on financial implications in the body of the Submission.

7.53. It should be noted that **Cabinet consideration of any additional expenditure will generally only be in the Budget context.**

7.54. In exceptional cases, where extra funding is required in the current fiscal year, agencies should consult with the Department of Treasury as early as possible in developing the proposal. This consultation should take place in advance of draft Submissions being circulated for formal consultation comments. Submissions in all such cases will need to:

- a) demonstrate clearly the necessity of having the expenditure proposals considered outside the Budget context;
- b) indicate whether the Department of Treasury supports the Proposal; and
- c) where this support is not available, include the Department of Treasury's advice.

ATTACHMENTS

7.55. Essential material which cannot be included in a Submission can be provided in brief attachments. Attachments should be succinct and the Submission should contain a brief explanation of the material in any attachments.

7.56. An attachment is warranted if it contains:

- a) background information essential to an appreciation of the case being made or an understanding of the issues under consideration;
- b) material essential for immediate implementation of a proposal such as a draft media release or Ministerial Statement; or
- c) material specifically sought by Cabinet.

7.57. Except in the case of Bills, **each attachment should not exceed 10 pages**. The agreement of the Cabinet Office will be required for attachments that exceed this length.

7.58. If Cabinet is asked to endorse an attachment to a Submission, for example a Ministerial Statement or response to an Assembly Committee Report, the attachment is to be set out in a form which enables quick comprehension and raises only those issues covered in the Submission.

7.59. An attachment must not contain new material or recommendations to Cabinet. Matters requiring Cabinet agreement, including policy issues, should be outlined in the Submission. For example, **where legislative drafting instructions are attached, the Submission should address all the substantive policy issues covered by the instructions**.

7.60. Where a Submission proposes a response to an Assembly Committee or other report, the broad directions of the proposed Government response must be discussed in the body of the Submission and the full response set out in an attachment for tabling in the Assembly. Standard wording for recommendations dealing with Government responses are included in *The Drafter's Guide* at Appendix A.

[Note: agency coordination comments must be attached to all Submissions. See paragraphs 8.13 to 8.14].

MINISTERIAL STATEMENTS

7.61. Ministerial Statements to be made in the Legislative Assembly are presented for Cabinet consideration by means of a Ministerial Statements Schedule. Proforma cover pages should accompany all Ministerial Statements. The cover page should give the full title of the Statement, who is delivering it (Minister's name and title) and the date on which the statement is to be made in the Legislative Assembly.

7.62. Where a Minister proposes to make a Ministerial Statement, he or she should write to the Chief Minister seeking to have the Statement included on the Ministerial Statements Schedule. This letter should attach the full text of the proposed Statement and be provided to the Chief Minister by noon on the Monday prior to the Cabinet meeting at which the Ministerial Statement is proposed for consideration).

7.63. Ministerial statements are subject to the same requirements for inclusion on the Agenda and lodgement as Submissions (see paragraphs 3.4-3.6).

7.64. If a Ministerial Statement concerns matters which affect more than one agency, it is necessary for the proposed statement to be circulated to the relevant Chief Executives for comment.

CORRIGENDA AND ADDENDA

7.65. In the event that a lodged Submission requires correction or additional essential information, Cabinet Office should be consulted immediately on the appropriate way of handling the matter.

7.66. If a Corrigendum or Addendum is required, copies should be provided promptly to all recipients of the original document. Procedures for distribution and security are the same as for Submissions.

7.67. Each Corrigendum or Addendum should consist of pages which can be added to, or substituted for, pages in the lodged document, with corrected or additional material clearly sidelined. A proforma cover page should accompany each copy, giving the Submission number, the title, the responsible Minister, and clear instructions for effecting the alteration. See *The Drafter's Guide* at Appendix A for more detail on the use of Corrigenda and Addenda.

7.68. The Corrigendum or Addendum must be signed by the relevant Minister.

CHAPTER 8: CONSULTATION

GENERAL

8.1. The object of consultation in the development of proposals is to ensure that all relevant factors are taken into account. The process ensures that, as far as possible, differences are resolved in advance of Cabinet consideration or are identified and set out in a way that will facilitate decision-making.

8.2. Consultation should take place at Ministerial and official levels on all matters affecting the interests of other portfolios/Agencies. When a Submission covers matters of joint responsibility, it should be presented jointly by the Ministers concerned.

8.3. The circulation of a draft Cabinet Submission for general information, or of an already finalised and Ministerially approved Submission for the addition of a consultation comment, **does not constitute appropriate consultation.**

CONSULTATION WITH THE COMMUNITY

8.4. Consultation is an integral part of the development of a policy proposal, from the outset of that development through to the clearance of a final Submission. Properly conducted community consultations demonstrate the transparency and accountability of government processes and help to build a cooperative and responsive relationship between Government and the community. Ministers and Agencies with an interest in a proposal should have ample opportunity to contribute to its development and to resolve any differences before the Submission is lodged for consideration by Cabinet.

8.5. Consultation at an early stage may take a number of forms such as discussions, correspondence, electronic mail etc and is generally of a more informal nature than circulation for coordination comments. In many instances, the preparation of a Regulation Impact Statement will provide an effective basis for consultation on policy development. [Note: regard should be given to the confidentiality of any documents used during early consultation, and the potential for any document to later become classified as "cabinet-in-confidence".] Officers should refer to the Consultation Manual (Hands on help for planning effective consultation strategies – February 2000) prepared by the Chief Minister's Department. Copies are available by contacting the Cabinet Office.

8.6 It is mandatory for all Cabinet Submissions to report fully on the outcomes of external/stakeholder consultations. Issues which should be reported include who is most affected by the policy proposal? What methods have been used to engage these people over what time period? Have key stakeholders/representative groups been consulted? How has the broader community been made aware of the policy proposal (if appropriate)? In addition, submissions should report on the issues raised during consultation and provide responses to those issues.

FORMAL CONSULTATION

Circulation

8.7. Draft Submissions which are circulated for coordination comments should be cleared for circulation by Ministers. Agencies must ensure that the ACT Office of Multicultural and

Community Affairs within the Chief Minister's Department is consulted on all Draft Submissions for the purpose of assessing gender impact and ensuring that the specific needs of Canberra's multicultural and Aboriginal and Torres Strait Islander communities are taken into account. Distribution letters should be addressed to the relevant Chief Executives, and marked "Attention: Cabinet Liaison Officer" and "ACT Office of Multicultural and Community Affairs".

8.8 At the formal consultation stage Agencies are to be given sufficient time to properly analyse and comment on draft Submissions. The time allowed for this should be at **least seven (7) clear working days**. Where a draft Submission is particularly complex or controversial a longer circulation period may be warranted. **Formal consultation should commence at least four weeks before the proposed Cabinet date.**

8.9 Consultation by Ministers with Caucus is an important part of the consultation process. Further guidance on this requirement is provided at paragraphs 8.25 - 8.26 below. When seeking circulation clearance, a summary of the issues and key proposals relating to the draft Submission should be provided for the Minister's use for this required purpose.

8.10 In the case of unforeseen matters or in cases of exceptional urgency, the Secretary to Cabinet or Cabinet Office agreement may be sought to reduce the consultation period. The period of consultation in such circumstances is not expected to be less than **three (3) clear working days**. The request for consideration of circulation for coordination comments for anything less than seven clear working days must be submitted in writing to the Secretary to Cabinet or Director, Cabinet Office and must set out the reasons for reduced circulation. These reasons will be important to the Secretary to Cabinet and Director, Cabinet Office in view of their role in assisting the Chief Minister with the programming of Government business.

Consultation Comments

8.11. The conduct of the consultation process is to be managed by the Chief Executive and can take a number of forms. It can be undertaken by way of discussion, annotation of the Submission or formal written comments at the Chief Executive level. Comments of a minor nature, such as those relating to a factual error, may be conveyed by way of a telephone call. Chief Executives may also choose to convene a specific working group or to hold a meeting. Chief Executives are responsible for ensuring the quality and value of the input of their Agencies.

8.12. **Formal consultation comments from Agencies should be presented as a co-ordinated Agency position.** They should be signed at Chief Executive level or, where this is not possible, by an officer sufficiently senior to commit the Agency to the views expressed. Cabinet Liaison Officers should ensure that a copy of all consultation comments is forwarded to the Cabinet Office.

Inclusion of Consultation Comments in Submissions

8.13. Regardless of how the consultation process has been conducted, the drafting agency is responsible for ensuring that the comments from other agencies are reflected and recorded in the Submission. Agencies should check that they have received all comments before finalising the Submission.

8.14. **To aid Cabinet in its deliberations, the formal written comments of all Agencies consulted should be attached to the final Submission.**

8.15. Ministers and Agencies should also be prepared to amend a Submission to take account of comments. While Submissions should present agreed proposals, where agreement is not reached between agencies a difference of view should be recorded on the cover page and addressed in the Submission. The drafting agency should confirm that agencies are satisfied with the manner in which comments have been reflected in the Submission, before it is forwarded to the Minister for signature. This confirmation process could be done by telephone when time does not permit a more formal approach. Consideration should be given as to whether the Submission should contain a brief statement of how the draft Submission was modified to reflect coordination comments if that would assist members of Cabinet.

8.16. Chief Executives are required to give written assurances to their Ministers that effective and comprehensive consultation has been undertaken. The final Submission is signed by the Minister only when the consultation process is complete and the Submission has been finalised for lodgement with the Cabinet Office.

8.17. Where it is not clear that adequate consultation has taken place, the Cabinet Office will not clear the Submission for lodgement. The Submission will be returned to the sponsoring Minister's Agency with a request that adequate consultation take place before lodging.

CENTRAL AGENCY CONSULTATION

8.18. The following central Agencies must be consulted on all Submissions:

- a) Chief Minister's Department (including compulsory consultation on all Submissions with the ACT Multicultural and Community Affairs Group);
- b) Department of Treasury; and
- c) Department of Justice and Community Safety (please note that draft Submissions should be circulated for comment to the Chief Executive and that receipt of legal advice from Parliamentary Counsel or from the Government Solicitor does not necessarily or usually meet this need - in addition see paragraphs 8.19 - 8.20 below).

CONSULTATION WITH THE ACT LEGAL AID OFFICE

8.19. In developing proposals which may have an impact on legal aid services, Agencies should consult the Executive Director, Policy and Regulatory Division, Department of Justice and Community Safety, as early as possible. The Policy and Regulatory Division will advise on whether the Legal Aid Office needs to be consulted. If required, the Legal Aid Office will assess the potential that proposals may have to increase the community's need for legal aid, so that the impact on legal aid funding is spelt out in the draft Submission before it is circulated for formal consultation comments.

8.20. Where such preliminary consultation has ascertained that a proposal will have an impact on the demand for legal aid services, the originating Agency should arrange for circulation of the draft Submission to the ACT Legal Aid Office for formal consultation comment through the Department of Justice and Community Safety.

CONSULTATION WITH THE AUSTRALIAN FEDERAL POLICE

8.21. The following arrangements will apply where consultation with the Australian Federal Police is considered necessary:

- a) access to draft Cabinet Submissions for consultation comment should be determined by the responsible Minister in consultation with the Attorney-General and co-ordinated by the Department of Justice and Community Safety;
- b) any draft Cabinet Submissions or final Cabinet Submissions provided to the AFP should be by way of the Cabinet Liaison Officer in the Department of Justice and Community Safety; and
- c) access to working documents in the development of Cabinet Submissions is the responsibility of the originating Agency and should be provided strictly on a "need to know" basis.

CONSULTATION WITH OTHER AGENCIES

8.22. Other Agencies should be consulted where the Submission or draft Bill may have an impact on their areas of responsibility. The Cabinet Office is able to advise on which Agencies should be consulted on particular Submissions.

CONSULTATION WITH EXTERNAL BODIES (WHERE APPLICABLE)

8.23. Cabinet should be informed of stakeholder views and likely community reaction to policy proposals.

8.24. The proforma cover page to the Submission should list all external organisations consulted and record the outcome of the consultation against "Is there agreement?". Where there are unresolved issues, a brief description should be provided either on the cover page or in the body of the Submission with appropriate paragraph reference provided on the cover page.

8.25. In consulting with external organisations, particular regard must be paid to the normal security regime applicable to Cabinet documents. External organisations may be consulted on particular issues or policy options, but the actual Submission (whether in draft or final form), in particular its recommendations, is strictly Cabinet-in-Confidence and circulation is confined to Ministers and relevant ACTPS Agencies only.

CONSULTATION WITH CAUCUS

8.26. Ministers should be in a position to inform Cabinet when their Submissions are being considered of any views of Caucus on the issues and proposals addressed in their Submissions. Ministers are to judge the most appropriate stage in the development of a Submission to conduct consultations with Caucus and the means by which this should occur. A precis of the issues and key proposals may be provided (see paragraph 8.9). Cabinet Submissions as such may not be circulated to Caucus and the usual strict confidentiality rules relating to Cabinet documents must always be followed. Where such consultations with Caucus occur before a Submission is lodged, a statement to this effect should be included on the cover page of the Submission.

8.27. Drafting officers should also note the requirement that legislation which has been agreed by Cabinet for introduction into the Assembly should normally be provided to Caucus before introduction. This requirement is further explained in paragraphs 9.34 – 9.36 of this Handbook.

CHAPTER 9: LEGISLATION

BACKGROUND

9.1. The procedures involved in making legislation in the ACT are outlined in the ACT Government Legislation Handbook which is available on the Government website or from Cabinet Office.

9.2. Proposals for legislation are considered by Cabinet in two stages:

- a) **First Stage** Cabinet provides policy approval and agrees to the preparation of new or amending legislation; and
- b) **Second Stage** Cabinet agrees to the presentation of a Bill resulting from earlier Cabinet in-principle agreement to the legislation's preparation. The second stage Cabinet consideration may be through the inclusion of the Bill on the Bills Schedule, or a full Submission.

9.3. Where the policy effect of proposed legislation is minor or technical in nature, the responsible Minister may seek the Chief Minister's agreement to the preparation of the legislation without reference to Cabinet at the first stage. Some purely technical amendments may be dealt with through the Technical Amendments Program (see paragraph 9.26, below). The advice of the Parliamentary Counsel's Office and the Cabinet Office should be sought in the first instance as to whether an amendment is, in fact, 'minor and technical' in nature.

9.4. Cabinet agreement is required for the introduction of all legislation into the Assembly, including legislation of a minor or technical nature for which preparation has been agreed by the Chief Minister without reference to Cabinet.

GENERAL REQUIREMENTS

9.5. Before a Submission is developed proposing legislation or other regulatory action, a **Regulation Impact Statement** should be completed. While in some cases, the need for such legislative control may be clear, there may be alternative approaches available. If legislation or regulatory action is not considered necessary, the Submission should canvass alternative means of achieving the objectives. Legislation or other regulatory action should only be considered when all other alternatives have been demonstrated to be inefficient and/or ineffective.

9.6. The development of a Regulation Impact Statement will also enable assessment of whether Competition Policy criteria are met. Further information on developing a Regulation Impact Statement is available from the Microeconomic Reform Section, Department of Treasury (ph 620 75904).

9.7. **The Department of Justice and Community Safety must also be consulted at an early stage** as to whether legislation will be necessary in the implementation of proposals being developed. The resulting Submission must indicate that Department's response (a mention on the cover page is usually sufficient).

POLICY APPROVAL (IN PRINCIPLE AGREEMENT TO DRAFT LEGISLATION)

9.8. **Proposals and the associated drafting instructions should be fully developed before Cabinet's in-principle agreement is sought.** Any subsequent change to policy and related legislation will require a further Submission to Cabinet. A full copy of the drafting instructions should be attached to the Submission.

9.9. **The Submission should outline and seek Cabinet agreement to all the substantive policy issues addressed in the drafting instructions and proposed legislation.**

9.10. If the Cabinet has already allocated a status to the proposed Bill, this should be indicated on the proforma cover page, under "Urgency". If the proposed legislation does not have a category status allocated to it, the Minister should seek this from the Chief Minister, in writing, prior to the Submission being circulated. Alternatively, the Submission should seek Cabinet's agreement to a category status and the placement of the legislation on the legislation program.

9.11. Media releases issued after Cabinet has approved a proposal which requires legislation should not specify when the legislation will be introduced into the Assembly. Agencies should be aware that there is no absolute certainty of timing. Even if the legislative proposal has been given a place on the legislation program for the current or following Assembly period of sittings, the legislation program may need to be reassessed and is subject to frequent revisions in the light of other exigencies (e.g. changes in priorities).

BILLS TO BE SUBMITTED TO CABINET

9.12. Cabinet examines and approves all Bills and associated documents prior to their presentation in the Legislative Assembly, including those where the Chief Minister has given initial in-principle agreement to the drafting of the Bill (see paragraph 9.3). There are two ways that approval for presentation can be sought:

- a) the Bill may be included on the Cabinet Bills Schedule; or
- b) the Bill may be the subject of a Submission seeking Cabinet agreement.

THE BILLS SCHEDULE

9.13. The Bills Schedule is prepared by the Cabinet Office and includes Bills based on Ministers' written requests to the Chief Minister. This is a routine item on the Cabinet Agenda. **If there is any departure from Cabinet's policy authority, or if the Bill was prepared following the Chief Minister's policy approval, or is a Statute Law Amendment Bill under the Technical Amendments Program, the Bill must be subject to a full Submission.**

Consultation

9.14. The Cabinet Office and the Policy and Regulatory Division, Department of Justice and Community Safety must be consulted on all Bills prior to the Minister seeking the Chief Minister's agreement to have the Bills included on the Bills Schedule. For this purpose a letter of transmittal should be sent from the relevant Chief Executive to the Chief Executives of the Chief Minister's Department and Department of Justice and Community Safety seeking their views on inclusion of the Bill on the Bills Schedule.

9.15. At least **five (5) working days** should be allowed for the Chief Minister's Department and Department of Justice and Community Safety to consider the final Bill, the Explanatory Memorandum, the Presentation Speech and Memorandum from Parliamentary Counsel. This consultation should commence at least three weeks before the proposed Cabinet date and should then be reflected in the Minister's letter to the Chief Minister.

9.16. Where a Bill will affect legislation that is the responsibility of another agency under the Administrative Arrangements Orders, the sponsoring agency should ensure that appropriate consultation on the Bill occurs during the drafting of the legislation.

Approval

9.17. The Minister should write to the Chief Minister seeking to have a Bill included on the Bills Schedule **at least seven working days** prior to the meeting at which the Bill is proposed to be raised for discussion - ie. letter should be received by the Cabinet Office by noon on the Monday prior to the Cabinet meeting at which the Bill or Bills are proposed for consideration.

9.18. The Minister's letter should include:

- a) the exact title of the Bill;
- b) the number and date of the Cabinet Decision authorising the preparation of the legislation;
- c) a statement of any urgency, or critical or significant dates which may affect the Bill's presentation in the Legislative Assembly;
- d) advice on the outcome of consultation with the Chief Minister's Department and Department of Justice and Community Safety (paragraph 9.14); and
- e) advice on commencement arrangements contained in the legislation and any related matters (eg arrangements concerning regulations or other publications).

9.19. **The Minister's letter must be accompanied by the Bill, Explanatory Memorandum, Presentation Speech and memorandum from Parliamentary Counsel.**

9.20. Agencies should note that, while inclusion on the Bills Schedule will reduce the distribution of paper, it will not significantly shorten the period of consultation and notice of proposed Cabinet consideration.

SUBMISSIONS SEEKING CABINET'S AGREEMENT TO INTRODUCE A BILL

9.21. A Cabinet Submission is required where:

- a) there is a departure from the policy approved in a previous Cabinet Decision (including departure from in-principle approval or from government policy of broad application which was not indicated in the original in-principle approval); or
- b) the preparation of the legislation was authorised by the Chief Minister; or
- c) the legislation is a Statute Law Amendment Bill under the Technical Amendments Program.

9.22. The Submission should recommend that Cabinet:

- a) agree to any departures from the policy authority (these will need to be specified);
- b) note the Memorandum by Parliamentary Counsel;
- c) agree to the presentation in the Legislative Assembly of the Bill, attached to the submission;
- d) note the Explanatory Memorandum for the Bill; and
- e) agree to the terms of the Presentation Speech for the Bill.

9.23. A full Submission for the introduction of a Bill may also be warranted in other circumstances. These could include, for example, where there has been a change in particular circumstances which may have been influential in Cabinet's in principle agreement to the policy, or where the Minister feels that a particular strategy is required for passage of the Bill through the Legislative Assembly. The Cabinet Office is able to provide advice on this issue.

9.24. As well as dealing with the policy issues or other special circumstances surrounding a Bill, the Submission should meet the requirements set out in *Chapter 7* and *The Drafter's Guide* at Appendix A.

MEMORANDUM FROM THE PARLIAMENTARY COUNSEL'S OFFICE

9.25. In giving its final approval, Cabinet relies on a memorandum from the Parliamentary Counsel's Office as to whether the Bill conforms strictly with the scope of the authority obtained from Cabinet or the Chief Minister. If there are any divergences from the policy authority, the Parliamentary Counsel's Office will write a memorandum to Cabinet drawing its attention to them. A Bill which departs from policy authority will not be included on the Bills Schedule.

TECHNICAL AMENDMENTS PROGRAM

9.26. The technical amendments program allows for legislative changes that are primarily of a technical nature to be dealt with on a regular basis, through inclusion in a 'Statute Law Amendment Bill' or, where appropriate, in schedules of technical amendments in other Bills.

9.27. Amendments which meet the criteria for inclusion in the technical amendments program do not require in-principle agreement from Cabinet. However, amendments proposed under Schedules 1 and 4 of a Statute Law Amendment Bill require the Chief Minister's approval. Schedule 1 deals with minor policy changes proposed by government agencies. Schedule 4 deals with repeals, proposed by government agencies or the Parliamentary Counsels' Office, of obsolete or unnecessary legislation.

9.28. Detailed criteria and matters which are inappropriate for the technical amendments program are set out in guidelines and practice notes that may be obtained from Parliamentary Counsel's Office. Proposals for inclusion in the program should be discussed with the Cabinet Office and Parliamentary Counsel.

9.29. A full Submission is required in order to seek Cabinet's agreement for the presentation of a Statute Law Amendment Bill developed through the technical amendments program. Parliamentary Counsel is responsible for drafting Submissions for Statute Law Amendment Bills, in addition to drafting the explanatory memoranda, presentation speeches and Bills.

9.30. Approval for the drafting and presentation of amendments that do not meet the criteria for the technical amendments program, should be handled in accordance with the standard procedures for legislative amendments set out in the Legislation Handbook and Cabinet Handbook.

EXPOSURE DRAFTS

9.31. Cabinet agreement is required for any proposal to release an Exposure Draft of a Bill. In normal circumstances, the text of a Bill is first made public when the Bill is introduced into the Assembly. In cases where proposed measures are likely to have a significant impact on the community, it may be desirable for the public to be given an opportunity to comment on a draft of a Bill before the Bill is finalised for introduction. If exposure is desired, the Minister should normally seek Cabinet agreement to release an exposure draft when seeking Cabinet agreement to the policy.

TIMING OF CONSIDERATION BY CABINET

9.32. Agencies should remember that Cabinet has to consider many Government matters other than legislation, and it may not be possible to consider a Bill at a particular meeting. If the Bill must be presented on or near a particular day, the instructing Agency should contact the Cabinet Office as soon as possible to discuss the matter and to make appropriate arrangements for the inclusion of the Submission on the most appropriate Agenda. Agencies should allow four weeks from the commencement of formal consultation to Cabinet consideration.

POST-CABINET CHANGES TO A BILL

9.33. The Chief Minister may authorise minor policy changes to a Bill after presentation of the Bill has been agreed to by Cabinet. However, if the amendments are substantial in nature, they should be referred back to a full Cabinet meeting in a Cabinet Submission.

REFERRAL TO CAUCUS

9.34. Legislation which has been agreed by Cabinet for introduction into the Assembly should normally be provided to Caucus before introduction. To this end, following Cabinet's agreement, but before the introduction of legislation into the Assembly, a Minister's office is expected to provide the Caucus Secretary with eight copies of the following documentation:

- the Bill, Explanatory Memorandum and Presentation Speech; and
- a short explanatory note from the Minister to highlight significant sensitive issues and to indicate how the legislative proposal reflects Government policies (eg election commitments, party platforms etc).

9.35. In keeping with their status, the documents should be stamped "Cabinet-in-Confidence".

9.36. Agencies should liaise closely with their Minister's office to assist putting together the required documentation in a timely manner.

CHAPTER 10: APPOINTMENTS

GENERAL

10.1. All appointments to ACT Government full-time statutory offices and part-time appointments to boards, commissions and advisory bodies are determined by Cabinet. An advisory body, commission or board includes those that are appointed by the Executive or a Minister.

10.2. All ACT Government nominations made by a Minister to non-ACT Government committees are agreed by Cabinet.

APPOINTMENTS SCHEDULE

10.3. Proposed appointments are normally brought to Cabinet by inclusion on an **Appointments Schedule**. This is a routine item on the Cabinet Agenda and is prepared by the Cabinet Office from the information provided by Ministers in letters to the Chief Minister. The Appointments Schedule is circulated by the Cabinet Office to Ministers and Chief Executives.

10.4. Proposed appointments may also be brought to Cabinet in a Submission where the proposed appointments are associated with other issues requiring Cabinet's deliberations.

LETTER TO THE CHIEF MINISTER

10.5. In seeking to have an appointment included in the Appointment Schedule, a Minister must write to the Chief Minister **at least seven working days prior** to the meeting at which the appointment or reappointment is proposed to be raised for discussion. This allows for the letter to be received by the Cabinet Office by noon on the Monday prior to the Cabinet meeting at which the appointment is proposed for consideration. The letter must include the following information:

- a) position(s) to be filled;
- b) full name of nominee(s);
- c) personal details regarding the nominee(s) - for example experience, major occupation, other appointments and qualifications;
- d) nature of the office (statutory or non-statutory) - if statutory, the title of the legislation covering the appointment and whether the position is full or part-time;
- e) date and term of the proposed appointment;
- f) name of current position holder not being re-appointed, if applicable, and the reasons;
- g) particular aspects of the proposed appointment warranting comment (including the representation on the committee of women; Aboriginal and Torres Strait Islander people; and people from linguistically and culturally diverse backgrounds);
- h) reference to the nominee's interest in the proposed appointment and willingness to fulfil any appointments requirements (such as declarations of interest);
- i) what, if any, interagency consultation has occurred on the proposed appointment;
- j) remuneration arrangements for the appointment;
- k) names of existing members of the board or committee and the date of expiry of their appointment;

- l) whether the appointment needs to be the subject of consultation with an Assembly Committee, nominated by the Speaker, as required by the *Statutory Appointments Act 1994*;
- m) any additional information that may assist in the consideration of the appointment; and
- n) an up to date curriculum vitae for the nominee(s), as attachment(s).

10.6. The Cabinet Office has prepared a pro forma which summarises the most significant of these points (Appendix D). This proforma must be completed for all appointments and be provided in conjunction with the letter from the Minister to the Chief Minister. Additionally, a consultation cover sheet (Appendix E) must also be attached to all appointment proposals (see paragraph 10.26 below). The proforma and cover sheet are available electronically from the Cabinet Office and from each agency's Cabinet Liaison Officer.

APPOINTMENT CHECKS

10.7. In proposing and making appointments to ACT Government boards and committees, care must be taken to ensure that the Government and nominees are caused no embarrassment.

10.8. Accordingly, agencies must make contact with nominees to ensure their interest in the appointment and their capacity and willingness to fulfil any appointment requirements (such as ethical requirements and declarations of interest). It is essential, that prospective appointees are made aware that no commitment can be made to their selection at this point.

10.9. Ministers may then propose to Cabinet the appointment of the nominee prior to the completion of the checking process. The nominee agreed by Cabinet is a provisional appointment only and will be subject to the successful completion of the checking process.

10.10. Following Cabinet's agreement, the responsible Minister will write to offer the agreed nominee an appointment, subject to the satisfactory outcome of the checking process. This letter should also commence the pre-appointment checking process by seeking the required assurances, particularly in respect of potential conflicts of interests and personal financial affairs.

10.11. In writing to formally offer an appointment, following Cabinet's agreement, Ministers must also invite each proposed appointee to identify themselves as an Aboriginal and Torres Strait Islander person and/or a person from a linguistically and culturally diverse background, where the appointee wishes to do so and it is appropriate.

10.12. Following Cabinet's provisional agreement and a positive response to the Minister's formal offer of appointment, the Minister may be briefed to formally make the appointment. Staff preparing advice to Ministers on proposed appointments should check that all pre-appointment requirements have been met. Further advice on the requirements for pre-appointment checks can be obtained from the Public Sector Management Group (ph. 620 50503). (Note: as indicated at paragraph 10.17 the timing of these processes for statutory appointments must take account of Committee consideration).

STATUTORY APPOINTMENTS ACT 1994

10.13. The letter to the Chief Minister must indicate whether the appointment is subject to the *Statutory Appointments Act 1994* (the Act).

10.14. Requirements for statutory appointments are set out in the Act and in the *Subordinate Laws Act 1989*. Information on the Act and Guidelines for the Preparation of Disallowable Instruments (including instruments of appointment) may be obtained from the Director, General Law Group, Department of Justice and Community Safety (ph. 620 70546) or from the Cabinet Office.

10.15. The Act requires that proposed Ministerial appointments to statutory office must be referred to an Assembly Standing Committee, via the Speaker. All statutory appointments that fall under the Act are disallowable instruments, which means the instrument of appointment must be tabled in the Legislative Assembly and the appointment must be gazetted in order to be effective. The agency managing the appointment must ensure that all relevant appointments meet this provision of the Act.

10.16. The Act does not apply to statutory appointments:

- of ACT public servants (as defined in the *Public Sector Management Act 1994*) to a statutory office;
- to act in a position for a period that does not exceed six months in duration; or
- to a statutory office the only function of which is to advise the appointing Minister.

10.17. In cases where a Minister is required under the Act to refer an appointment to an Assembly Standing Committee, Cabinet must first agree to the provisional appointment *before* it is referred to the Committee. The Minister's formal invitation (which is subject to the completion of all pre-appointment checks) and the checking process occur *after* the Committee's consideration and *before* tabling and gazettal.

OTHER CONSIDERATIONS

10.18. Additional procedures apply to appointments concerning close relatives of Ministers, Assembly Members, Ministerial staff, or Agency Heads. Any such relationship must be noted in the appointment proposal being put to Cabinet. To avoid the appearance of any conflict of interest, those involved in the appointment process should have no family relationship with the person under consideration and any Ministers concerned should absent themselves from all discussions on the matter.

REMUNERATION

10.19. Appointment proposals must comply with the Government's policy on remuneration. The policy directs that members of ACT statutory and non-statutory boards and committees will *generally not receive any remuneration* in connection with their appointments except in cases:

- a) where a board or committee is established to provide a specific service which assists the Government and where additional public sector staffing arrangements would be necessary if not for the existence of the board or committee; or
- b) where payment of fees is required by an external authority or organisation; or
- c) specifically covered by a determination of the Remuneration Tribunal; or
- d) referred to Cabinet for decision on the basis of exceptional circumstances.

10.20. Non-remunerated members may be reimbursed for reasonable out-of-pocket expenses directly connected to their appointment or attendance at meetings.

10.21. In proposing appointments, Ministers must indicate whether or not remuneration is appropriate under the policy, and, if so, under what criteria. If remuneration is deemed appropriate, the rate of payment must be determined by an interim or subsisting determination of the Remuneration Tribunal, or by Ministerial decision.

10.22. Officers providing advice to Ministers on proposed appointments should familiarise themselves with the guidelines on *Payment to Members of ACTPS Boards and Committees*. Copies may be obtained by contacting the Cabinet Office (ph. 620 50463)

REPRESENTATION

10.23. The ACT Government is committed to achieving a target of 50% representation of women on Government Boards and Committees. The Government is also committed to encouraging and ensuring the participation and contribution of people from multicultural and linguistically diverse backgrounds, and Aboriginal and Torres Strait Islander people, in consultations and decision-making processes. Appointments to ACT Government boards and committees should therefore be consistent with these policies. See paragraph 10.26 below for advice and procedures for ensuring that the participation of particular groups is maximised.

10.24. The ACT Multicultural and Community Affairs Group, Chief Minister's Department, is able to provide assistance and support.

APPOINTMENTS OF FORMER MEMBERS OF THE LEGISLATIVE ASSEMBLY

10.25. Ministers will consider appointing former Members of the Legislative Assembly to ACT Government Statutory Authorities, boards and committees as appropriate. Agencies are required to take this practice into account in proposing relevant appointments for consideration by their Ministers.

CONSULTATION

10.26. The ACT Government is strongly committed to encouraging and supporting diverse community representation on boards and committees. In particular, the Government recognises a need to increase the level of participation of women, people from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander people. A consultation cover sheet must be completed when proposing appointments to ACT Government Boards and Committees. This cover sheet must be attached to the appointments package prior to being forwarded to the Minister for clearance. The cover sheet seeks advice on the processes which have been followed to ensure that the participation of particular groups is maximised. If the consultation cover sheet is not attached, or if it does not show that representative groups have been appropriately considered, agreement may not be given to lodgement of the appointments. A copy of the cover sheet is at Appendix E. The cover sheet will be assessed by the ACT Multicultural and Community Affairs Group in the Chief Minister's Department and the Chief Minister may be briefed accordingly, by the Chief Minister's Department, at the time of Cabinet consideration of the appointments.

10.27. Ministers must ensure that all necessary consultation with relevant Ministerial colleagues, Party Leaders and Assembly Members, and consultation with relevant

Commonwealth/State Ministers in the case of appointments from other jurisdictions, has been undertaken *before* submitting a letter to the Chief Minister seeking to raise the matter in Cabinet.

10.28. Appointments to the boards of ACT Government Business Enterprises and Territory Owned Corporations, require consultation with the Director, GBE Unit, Department of Treasury, prior to a proposed appointment being forwarded to Cabinet (ph 620 75904).

INTERGOVERNMENTAL CONSULTATION

10.29. Where a Minister proposes to appoint an official or judge from another jurisdiction to a position which does not require that person to resign (such as appointment to a part-time or temporary position with an advisory body or inquiry), consultation with the relevant Government must occur *before* Cabinet is asked to consider the appointment.

10.30. Such prior consultation should be handled through direct exchange of correspondence between relevant Ministers. However, where an appointment is of an exceptional or controversial nature, the consultation should occur at Heads of Government level (Chief Minister to Prime Minister/Premier).

MANAGEMENT OF APPOINTMENTS

10.31. Each Agency is required to manage a database of appointments to boards and committees within their portfolio area.

10.32. Each Agency's database should contain data fields comprising:

- a) the current membership of the board or committee;
- b) whether appointments are subject to the *Statutory Appointments Act* 1994; and
- c) the information required in the *Cabinet Appointment Form* (Appendix D).

10.33. The database will also assist in the scheduling of appointments for Cabinet's consideration.

FURTHER INFORMATION

10.34. Further information is available from the Handbook for ACT Government Agencies in Processing Board and Committee Appointments: A Guide for ACT Government Agencies which is available on the ACT Government website, Cabinet Liaison Officers or from the Cabinet Office.

CHAPTER 11: LODGEMENT OF CABINET BUSINESS PAPERS

LODGEMENT STATUS

11.1. After consultation is complete and the Minister has signed the finalised Submission, the Cabinet Liaison Officer (CLO) presents the Submission to the Cabinet Office for lodgement. **The Submission must be lodged by noon Monday** (or noon of the next working day where the Monday is a public holiday) of the week before a Monday Cabinet meeting (see paragraphs 3.11-3.13).

11.2. **The Cabinet Office has the authority to refuse to lodge Submissions if it believes that the Submission, in its present form, is not suitable for forwarding to Cabinet.**

The requirements set out in this Cabinet Handbook are the guide for this decision-making process.

CABINET OFFICE REQUIREMENTS

11.3. The original Submission (not numbered but signed by the responsible Minister) and copies (numbered one to fifteen), including attachments, must be forwarded to the Cabinet Office. These documents must be accompanied by a covering note advising how many copies of the Submission have been made, and where, and with whom, those copies not forwarded to the Cabinet Office are held. A sample covering letter is at [Appendix C](#).

CIRCULATION OF LODGED DOCUMENTS

11.4. With the exception of Cabinet Submissions originating in the Chief Minister's Department, the Cabinet Office will circulate Submissions lodged by agencies to Ministers and within the Chief Minister's Department only. Copies of Submissions originating in the Chief Ministers Department will be provided to agencies by the Cabinet Office.

11.5. The CLO of the originating Agency is responsible for the circulation of copies of the final Submission to Agencies on a "need to know" basis. These copies should be delivered (double enveloped) to the Cabinet Office and placed in Agency pigeon-holes, for collection by Agency couriers, at the time the Submission is lodged.

11.6. Copies are normally provided to portfolio Departments and all other Agencies involved in the formal consultation process in connection with the Submission. However, it is envisaged that Submissions of particular sensitivity, such as those dealing with Commercial-in-Confidence or revenue matters would be subject to limited circulation.

CHAPTER 12: ROLE OF CABINET LIAISON OFFICERS

12.1. Each Chief Executive should nominate one or two officers to be the Cabinet Liaison Officers for his or her Agency. The Cabinet Office must be kept informed of their names and telephone numbers and any changes must be notified as soon as possible.

12.2. Cabinet Office circulates up-to-date lists of Cabinet Liaison Officers when there are changes.

12.3. Each Cabinet Liaison Officer should have direct access to his/her Chief Executive on Cabinet matters.

12.4. The functions of Cabinet Liaison Officers are:

- a) to be the central point of contact with the Cabinet Office and other Agencies on Cabinet matters;
- b) to monitor and co-ordinate all forthcoming Cabinet business of the Minister and Agency and ensure the timely preparation of Submissions, briefings, and other Cabinet documents
- c) to arrange three monthly forecasts of Cabinet Submissions with monthly updates;
- d) to ensure that the guidelines and procedures set out in this Handbook are complied with in the preparation of Cabinet Submissions and other Cabinet documents;
- e) to monitor implementation of Cabinet Decisions which require further action by the Agency and ensure that any further information requested by Cabinet is provided promptly;
- f) to ensure that subsequent processes regarding matters dealt with by Cabinet and requiring legislation meet the deadlines set by Cabinet;
- g) to ensure that the Cabinet Office is informed of any special considerations in relation to the preparation, approval or introduction of specific legislative proposals; and
- h) under the direction of the Chief Executive, to be responsible for access to and security of Cabinet documents held within the Agency.

12.5. In relation to (d) above, it is the Cabinet Liaison Officer's responsibility to ensure that finalised Submissions provide complete documentation and meet the necessary editorial requirements, in particular those set out in *The Drafter's Guide* at Appendix A. Failure to do so may result in a Submission being rejected for lodgement by the Cabinet Office.

CHAPTER 13: MINISTERIAL ADVISORY GROUP

GENERAL

13.1. The Ministerial Advisory Group has been established to:

- a) provide high level, strategic advice to the Government on whole of government issues; and
- b) assist in the consideration and development of major Government policy initiatives and implementation strategies.

ATTENDANCE

13.2. The Ministerial Advisory Group consists of all Cabinet Ministers and Chief Executives and may also include Senior Advisers as appropriate. Meetings are chaired by the Chief Minister. The Director, Cabinet Office also attends as a note-taker.

13.3. Other senior officials may, on occasion, be requested to attend to provide advice on particular agenda items. The relevant Chief Executive should seek agreement from the Chief Executive, Chief Minister's Department for the attendance of officials. Senior officials who are not members of the Group should withdraw from the meeting when discussion on the item for which they attended is complete.

MEETINGS

13.4. Meetings are held as required in the Cabinet Room, ACT Legislative Assembly, and commence at 12.30pm, and generally finish at 1.30 pm.

AGENDAS

13.5. Agendas are agreed by the Chief Executive, Chief Minister's Department. Items generally appear on the Agenda after referral by Cabinet, referral by a Minister, or by other Ministerial Advisory Group members seeking the agreement of the Chief Executive, Chief Minister's Department.

PREPARATION OF PAPERS

13.6. Agenda items may be accompanied by a paper. Papers may take the form of draft Cabinet Submissions, lodged Cabinet Submissions that are to be considered at a subsequent meeting of Cabinet or papers prepared specifically for the Ministerial Advisory Group. Where Cabinet has referred an item to the Ministerial Advisory Group, it would usually be accompanied by the original Submission.

13.7. There are no formal requirements for papers prepared specifically for meetings of the Ministerial Advisory Group. However, the general principles that apply to the drafting of Cabinet Submissions should also apply to Ministerial Advisory Group papers.

13.8. In summary, papers should:

- a) be concise and focus on the key issues only;
- b) put forward an agreed basis of facts upon which discussion can proceed;
- c) avoid technical language and jargon; and
- d) contain recommendations for action.

13.9. Papers should also be accompanied by a standard cover sheet. An electronic copy can be obtained from the Cabinet Office.

DISTRIBUTION OF PAPERS

13.10. The responsibility for the distribution of papers for meetings will depend on the nature of the paper:

- a) Where an agenda item is accompanied by a Cabinet Submission, Cabinet Liaison Officers should ensure that their Chief Executive and Minister have their copies of the Submission;
- b) Where an agenda item is accompanied by a Submission, the Cabinet Office will ensure that copies of the Submission will be provided to Ministers' offices and to those Agencies who do not already have a copy of the Submission; and
- c) Where the agenda item is accompanied by a paper prepared specifically for the Ministerial Advisory Group, the Cabinet Office will arrange distribution.

13.11. Where the Cabinet Office is responsible for the distribution of papers, these must be provided to the Cabinet Office by close of business on the Monday before the meeting.

CABINET SUBMISSIONS

The Drafter's Guide

April 2002

TABLE OF CONTENTS

Introduction	55
General Principles for Preparation Submissions	55
General Principles	55
ACT Government Performance Measures for Policy Advice	56
Presentation Requirements for Submissions	57
(a) Basic Structure	57
(b) Submission Cover Page	57
Proforma cover page	60
(c) Body of Submission	61
Mandatory Headings	61
Optional Heading	62
(d) Standard Recommendations	66
(e) Attachments	67
(f) Formatting and Layout Requirements	68
Corrigenda and Addenda	70
Corrigenda	70
Addenda	71
Timeline	72

INTRODUCTION

About this Guide

The Drafter's Guide is intended to provide clear and specific guidance on the production of acceptable Cabinet Submissions. It should be read in conjunction with the *Cabinet Handbook*.

GENERAL PRINCIPLES

Submissions are presented by the relevant **Minister** and are written in his or her name, although they are usually prepared by departments. Submissions:

- a) Provide **information** and advocate a course of **action**;
- b) State the **Minister's** analysis and **views**; and
- c) End with **Recommendations** for **agreement** and/or **noting**.

Submissions should:

- Be presented in a **standard format**.
- Be **easy** for a reader to **work through**.
- Put forward an **agreed** basis of **facts** on which discussion may proceed.
- Identify the central **issues** in sufficient detail to facilitate considered decision-making.
- contain a **logical development** of information and argument that leads naturally to the recommendations.
- Indicate realistic policy **options** and their **implications** for achieving identified **objectives**.
- Identify and emphasise any contentious issues, points of disagreement and likely community or stakeholder reaction.

Techniques for producing well-written Submissions are:

- Use everyday language.
- Avoid long, complicated sentences and paragraphs.
- Avoid technical terms and jargon.
- Be concise; stick to key points.
- Build arguments step by step.
- Rework each sentence until every word counts.

- Edit ruthlessly.
- Test the finished product by having it read by a colleague unfamiliar with the subject. (Note: Keep in mind the confidentiality of the proposal).

ACT GOVERNMENT PERFORMANCE MEASURES FOR POLICY ADVICE

Cabinet Submissions must meet the *ACT Government Performance Measures for Policy Advice*. The Chief Minister requires that policy advice will either comply with or exceed minimum standards established by the Government. The ACT Government Policy Performance Measures are:

Clarity	The advice is clearly stated and it answers the questions set. The material is effectively, concisely and clearly presented and meets Cabinet Office requirements; has short sentences in plain English and is free of spelling and grammatical errors.
Logic	The assumptions behind the advice are explicit and the argument is logical and supported by facts. The analysis is linked to other Government policies and identifies other related Government policy areas.
Accuracy	The facts in the paper are accurate and all material facts are included and clearly highlight the range and extent of uncertainty and/or risk.
Options	An adequate range of options are presented and the benefits, price (costs) and consequences of each option to the Government and the community are assessed.
Consultation	The Agency has consulted with other government agencies and other affected parties and possible objections to proposals are identified.
Practicality and Relevance	The problems of implementation, technical feasibility, timing and consistency with other policies have been considered.
Timeliness	Specified reporting deadlines are met. Ministers have sufficient time to give full consideration to issues and to take appropriate action.
Cost Effectiveness	Advice be produced cost effectively and within budgeted price (cost).
Peer Review	Internal and/or external peer review indicating that advice is clear, concise, analytically sound, factually correct and practical.

PRESENTATION REQUIREMENTS FOR SUBMISSIONS

(a) BASIC STRUCTURE

Cabinet Submissions are made up of three elements:

- Cover Page
- Body
- Attachments (optional)

The information and argument presented in the cover page, body and attachments should always be consistent. Any necessary inconsistencies should be discussed in the body of the Submission (for example, inconsistency between an Assembly Committee recommendation and a proposed Government response).

The following sections describe in detail the drafting requirements for each element in relation to Submissions.

(b) SUBMISSION COVER PAGE

The cover page appears at the front of every Submission. As much information as possible should be included in the cover page as an overview of the Submission. A blank cover page appears at page 62 of this *Guide*. The cover page is available electronically from the Cabinet Office.

Guidelines for the formatting of the cover page are as follows:

- Align the text to the left margin.
- Place responses adjacent to the headings.
- Use single spacing and normal upper and lower case, except for the Title.

Each heading in the cover page must be responded to, even if it is simply “Not Applicable”. Guidelines for completing each entry of the cover page are as follows:

- | | |
|-----------------------|---|
| Submission No. | • Leave this entry blank. The Submission Number is assigned by Cabinet Office after lodgement. |
| Copy No. | • Leave this entry blank. The Agency CLO will number each copy individually before lodging. |
| Title | <ul style="list-style-type: none"> • Insert the title in UPPER CASE and bold type. • Be concise, specific and use keywords at the beginning of the title. |

- Minister**
- . Enter the Minister's name and relevant portfolio.
 - . If it is a joint Submission (ie sponsored by more than one Minister) list the Minister with prime responsibility first.
- Purpose/Issues**
- . State what the Submission is seeking to achieve (eg Cabinet's agreement to ...).
 - . Use point form if necessary.
 - . The purpose must reflect the Recommendations.
- Consistency with Government Policies**
- . Answer Yes or No, at least.
 - . Indicate consistency or otherwise with particular government policies, including:
 - Cabinet authority (number and date of Decision);
 - Party Platform; or
 - other stated policies or policy commitments.
 - . If possible, summarise the existing policy or commitment.
- Legislation Involved**
- . Answer Yes or No, at least.
 - . If YES, cite the title and year of the legislation to be amended or possible title of proposed new legislation.
 - . The Department of Justice and Community Safety must be consulted prior to completing this entry.
 - . If too many Acts are involved for citation, refer to the paragraph in the Body or the Attachment which covers the detail.
 - . *Chapter Nine* of the *Cabinet Handbook* provides further guidance on legislative proposals.
- Impact on Women**
- . All submissions must be assessed by the ACT Office for Women, Chief Minister's Department on gender impact prior to completing this entry.
 - . A one or two line summary should be included of the assessment. If more information is necessary, refer to the paragraph in the Body which covers the detail.
- Multicultural and Aboriginal and Torres Strait Islander Impact**
- . Answer Yes or No, at least.
 - . Relevant submissions must be assessed by the ACT Multicultural and Community Affairs Group, Chief Minister's Department to ensure that the specific needs of Canberra's multicultural and Aboriginal and Torres Strait Islander communities are taken into account in any recommendations made to Cabinet prior to completing this entry.
 - . A one or two line summary should be included of any assessment. If more information is necessary, refer to the paragraph in the body of the Submission which covers the detail.
- Regulation Impact Statement**
- . Relevant Submissions should summarise the results of completion of a Regulation Impact Statement, including whether a proposal has any competition policy implications.
 - . Advice is available from Microeconomic Reform Section, Department of Treasury.

- Business Impact**
- Relevant Submissions should indicate whether a proposal may have an impact on business activity or development in the ACT.
 - Advice is available from Business Support Unit, Chief Minister's Department.
- Environment Statement**
- All Submissions should indicate whether a proposal has any immediate or possible future consequences for the environment.
- Public Sector Workforce Impact Statement**
- All Submissions should indicate whether a proposal will result in a net increase or decrease in labour usage by the Government, or a change in the nature of employment arrangements.
 - Any predicted community or stakeholder reaction to changed labour usage should also be addressed.
 - This entry should summarise the labour issues addressed in the Submission or Public Sector Workforce Impact Statement attached to the Submission.
- Urgency: Critical/ Significant Dates**
- Give the reasons for urgency or any circumstances that may influence the timing of Cabinet's consideration.
 - Specify any key dates and events, including relevant commencement arrangements in the case of proposed legislation.
 - If more information is necessary, refer to the paragraph in the Body which covers the detail.
 - Legislative priority should be stated only where it has been allocated via the Legislation Program.
- Consultation:**
- **Agencies**
 - List each agency consulted.
 - Consultation with Chief Minister's Department, Department of Treasury and Department of Justice and Community Safety is mandatory.
 - **Community**
 - **List the key** stakeholders/representative groups which have been consulted. Briefly state if there are any unresolved issues or major community concerns etc.
- Is there agreement?**
- Answer Yes or No, at least.
 - The answer must be NO unless EVERY agency consulted agrees on EVERY aspect of the proposal as it appears in the final Submission.
 - If NO, insert a one-sentence summary of major objections and refer to the paragraph in the body which discusses the objections. For example: "No. The Chief Minister's Department says the matter should be considered in Budget context. See paragraph 18."
- Budget impact this fiscal year and for forward estimates**
- Indicate the costs, any offsetting savings and revenue implications, including the financial years in which these will occur.
 - Details should be provided in the Financial Implications section of the Submission.
 - If there are no costs, savings or revenue implications, enter "Nil".

For Cabinet

Submission No.

Minister's signature / /

Copy No.

<p>Title</p> <p>Minister</p> <p>Purpose/Issues</p> <p>Consistency with Government Policies</p> <p>Legislation Involved</p> <p>Impact on Women</p> <p>Multicultural and Aboriginal and Torres Strait Islander Impact</p> <p>Environment Statement</p> <p>Regulatory Impact Statement</p> <p>Public Sector Workforce Impact Statement</p> <p>Urgency: Critical/significant Dates</p> <p>Consultation:</p> <ul style="list-style-type: none"> • Agencies • Community <p>Is there agreement from agencies</p> <p>Budget impact this fiscal year and for Forward Estimates</p>	
---	--

(c) **BODY OF SUBMISSION**

The body of a Submission must cover all the major issues about which decisions are to be made. It should contain a logical presentation of fact and analysis which leads to the recommendations. It need not duplicate material presented on the cover page, if this contains sufficient detail.

Guidelines for the formatting of the body of a Submission are as follows:

- Use **one and a half line** spacing.
- Use type no smaller than 12 point.
- Do **not fully-justify** text.
- The **first line** of each paragraph is indented **five (5) spaces** from the paragraph number.
- Do not exceed **five (5) pages** excluding the Cover Page.

The body of Submissions should be arranged under headings. The inclusion of sections dealing with **Issues**, **Consultation** and **Recommendations** are **mandatory** and these headings must be used in every Submission. Guidance on completion of these mandatory headings is as follows:

MANDATORY HEADINGS

ISSUES

- This section must be used to present issues for consideration and matters to be decided in a logical and concise manner.
- Concentrate on the crucial issues requiring Cabinet agreement (deal with minor detail in attachments, if necessary).
- Particular attention should be paid to the justification of the proposals in terms of desired program outputs and outcomes.
- **Issues** May be appropriately followed by **Options**.

CONSULTATION

- Two types of consultations must be reported under this Heading: **Formal Consultation** with agencies (ie comments received from agencies following the circulation of draft Cabinet Submissions for coordination comments (see paragraphs 8.7 and 8.8 of this Handbook).
- If there are areas of disagreement which have not been resolved, then these should be discussed.
- All substantive written comments by Agencies should be attached to the Submission or, if appropriate, summarised in an attachment to the Submission. The attachment should be flagged under this heading.
- **Consultation with the Community** - Issues which should be reported include who is most affected by the policy proposal? What methods have been used to engage these people over what time period? Have key stakeholders/representative groups been consulted? How has the broader community been made aware of the policy proposal (if appropriate)? In addition, submissions should report on the issues raised during consultation and provide responses to those issues. (see paragraphs 8.4 – 8.6).

- RECOMMENDATIONS**
- Place recommendations at the end of the Body of the Submission.
 - Ask Cabinet to either **agree** to a course of action or **note** information.
 - Be clear, concise and cover all matters for which agreement is required.
 - Each recommendation **must be underpinned** somewhere in the cover page or body of the Submission. That is, recommendations should not present information or proposals that are not discussed in the Submission.
 - Recommendations should be drafted to **stand alone** and cannot refer to paragraphs in the body of the Submission.
 - Recommendations should arise as a logical conclusion to the paper and, where appropriate, to the options outlined.
 - Recommendations should not ask Cabinet to agree to an action beyond its power to implement or which could fetter or direct the exercise of Ministerial discretion.
 - Standard wording of recommendations for frequently arising types of Cabinet business are attached to this *Guide*.

OPTIONAL HEADINGS

In addition to the mandatory sections, a number of other issues may need to be canvassed in the body of the Submission. The following **optional** headings may be used:

- BACKGROUND**
- Previous consideration by Cabinet and other relevant background is summarised here.
 - This entry can be omitted if sufficient detail is included on the cover page, eg under Purpose/Issues.
 - Include only matters relevant to the issues under consideration.
 - Keep the background as short as possible.
- OPTIONS**
- Set out the principal practicable options open to the Government.
 - Summarise the major arguments for/against each option. Detailed discussion of the relative merits of options should be dealt with under **Issues**.
 - This entry can be omitted when only one course of action is seriously proposed. However, Submissions should not ‘railroad’ consideration when options are available.
- RISK**
- Outline the range and extent of uncertainty and/or risk associated with proposals.
 - Include: legal risk; financial risk; risk to persons; risk to property.
 - Risk of unfavourable public comment may be addressed under this heading or under Consultation.
- FAIRNESS & OPPORTUNITY**
- The implications of the proposals for equity should be detailed, especially in relation to access to Government services.
 - This heading may cover consultation with community groups and non-government organisations and their likely reaction to the proposals.

- IMPACT ON WOMEN**
- This section should discuss how the proposals would affect and impact on women.
 - Information relating to any consultations with relevant women's organisations should also be provided
 - All submissions must be assessed by the ACT Office for Women within the ACT Multicultural and Community Affairs Group, Chief Minister's Department, for gender impact.
 - Drafters should respond to the Government's policy of encouraging indigenous women and women from linguistically and culturally diverse backgrounds to participate in its program of community consultations. Consultations should be consistent with the program of consultations with women and should be extended to women in business, education, science, the arts, media, law and information technology.
- MULTICULTURAL AND ABORIGINAL AND TORRES STRAIT ISLANDER IMPACT**
- These sections should discuss how the proposal would affect and impact on the specific needs of people from culturally and linguistically diverse backgrounds, and Aboriginal and Torres Strait Islander people respectively.
 - Information relating to any consultations with relevant community organisations should also be provided.
 - All Draft Cabinet Submissions will be assessed by the Multicultural Affairs Unit and the Aboriginal and Torres Strait Islander Affairs Unit within the ACT Multicultural and Community Affairs Group.
- CONSISTENCY WITH GOVERNMENT POLICIES**
- Where a Submission seeks to implement Government election commitments or other policy commitments, this should be clearly spelled out.
 - Any deviation from election commitments or policy previously agreed by Cabinet should be discussed.
 - If the equivalent entry on the cover page was 'No', then this section should be used to discuss the reasons for the proposal to be considered.
 - This section can be omitted if sufficient detail is included on the cover page.
- EMPLOYMENT CONSIDERATIONS**
- The significant employment effects of the proposal in either the public or private sectors should be stated.
 - If the proposal has effects on ACT Public Service employment then consultation with the Public Sector Management Group, Chief Minister's Department is mandatory.
 - Any impact on government labour usage should also be reflected under Public Sector Workforce Impact Statement on the cover page.
- INTER-GOVERNMENTAL RELATIONS**
- State any implications of the proposals for relations with Commonwealth, State, Territory or local governments. This could include negotiations proposed or held.
 - Include information on whether the negotiations must be notified under the *Administration (Interstate Agreements) Act 1997* (ie where this will lead to the enactment of legislation in the ACT).

- LEGAL AID IMPACT**
- Set out the effect of the proposals on demand for legal aid services, where appropriate.
 - This entry should only be completed after consultation with the Legal Aid Office.
- REGULATORY IMPACT**
- Set out the issues raised through the completion of a Regulation Impact Statement, in accordance with the *Guide to Regulation in the ACT*. The Guide is available from the Microeconomic Reform Section, Department of Treasury.
 - The Regulation Impact Statement may be attached to the Submission.
 - The impact of proposals on business activity or development in the ACT should also be outlined. Further advice on this matter can be obtained from the Business Support and Employment Unit, Chief Minister's Department.
 - Submissions should indicate whether the proposals have any competition policy implications.
- PUBLIC SECTOR WORKFORCE IMPACT STATEMENT**
- This heading should be used if a proposal will result in a net increase or decrease in labour usage by the Government; a net increase or decrease in spending on labour by the Government; or a change in the nature of employment arrangements.
 - The Submission should include an assessment of staffing implications of new, expanded or reduced government functions. This includes where proposals will affect staff, including temporary officers, contractors and others.
 - The details should include: the number of positions and related salary costs; nature of changed labour usage (permanent, temporary or casual); any offsets; and relation to productivity bargaining.
 - Any predicted community or stakeholder reaction (including union reaction) should also be addressed.
 - If necessary details can be included in an attached Public Sector Workforce Impact Statement and summarised in the body of the Submission.
- ENVIRONMENT STATEMENT**
- An environment statement is required if a policy proposal will have immediate or possible future consequences for the environment.
- PUBLIC INFORMATION CONSIDERATIONS**
- This entry should be used if it is proposed that a Cabinet decision be announced or if a public information program is proposed.
 - Where appropriate, the draft press release should be attached to the Submission for Cabinet agreement.
 - If a public information program is proposed, a brief outline should be provided including the proposed nature and level of the program and an estimated cost.

**FINANCIAL
IMPLICATIONS**

- . This entry should be included if the entry on the cover page is either not "Nil" or requires supporting detail.
- . The information must be fully consistent with cover page and any recommendations concerning cost.
- . Outline the estimated costs and revenue implications, and the period in which it would occur (see *Chapter 7 of Cabinet Handbook*).
- . Include: any important assumptions which underlie the costing methodology; relationship between costs and Forward Estimates; details of offsetting savings; revenue effects.
- . If used, this Section must be placed immediately before Recommendations.

(d) STANDARD RECOMMENDATIONS

Advice is given above on the drafting of recommendations. The following are examples of standard wording of recommendations for a number of frequently occurring types of Cabinet Business.

Government Submission to an Assembly Committee

- (a) agree to the Government Submission to the [Select/Standing Committee on X] on [Bill/Inquiry] at Attachment A to the Submission; and
- (b) agree that the [Minister for Y] forward the Government Submission, referred to at paragraph (a), to the Chair of the [Select/Standing Committee on X].

Government Response to a Private Members Bill

- (a) agree to [support/oppose] the [Bill title] introduced into the Legislative Assembly by [Member, MLA]; and
- (b) note the speaking notes prepared for debate of the Bill at Attachment A to the Submission.

Government Response to a Assembly Committee Report

- (a) agree to the terms of the Government Response to the [Report No. X] of the [Standing/Select Committee on Y] on [inquiry/Bill], at Attachment A to the submission;
- (b) agree that the [Minister for Z] table the Government Response, referred to in paragraph (a) above, in the Legislative Assembly; and
- (c) agree to the terms of the Tabling Statement at Attachment B to the Submission.

Agreement to draft legislation

- (a) agree in principle to the preparation of legislation to provide for [summary of purpose of the legislation and its main requirements]; and
- (b) note the Drafting Instructions at Attachment A to the Submission.

Agreement to present legislation in the Legislative Assembly

- (a) note the Memorandum by Parliamentary Counsel regarding the Bill;
- (b) agree to the presentation in the Legislative Assembly of the [name of Bill] attached to the Submission;
- (c) note the Explanatory Memorandum for the Bill; and
- (d) agree to the terms of the Presentation Speech for the Bill.

(e) ATTACHMENTS

Material which cannot be included the body of a Submission can be provided in brief attachments, where the material is essential to the Submission. Attachments can contain: background information essential to understanding issues under consideration; material necessary for implementation of a proposal, such as tabling speech or media release; and detailed material specifically sought by Cabinet.

All attachments must be referenced in the body of the Submission and, where appropriate, their content should be summarised in the Submission. Attachments should only raise issues covered in the Submission and must **not** contain recommendations for Cabinet. If a Submission seeks agreement to matters detailed in an attachment, the attachment is to be set out in a form enabling quick comprehension and is to contain no material beyond the scope of the recommendation.

Guidelines for the formatting and arrangements of attachments are as follows

Title	. The first page of each attachment must have a <u>TITLE</u>
Labelling	. Each attachment must have label on top right hand side, in UPPER CASE and underlined, eg <u>ATTACHMENT A</u> .
Page limit	. Attachments should be limited to <u>TEN</u> pages. . If a potential attachment exceeds ten pages, lodge it as a separate report and insert a short summary (2-3 pages) as an attachment.
Page numbering	. The page numbering of attachments is to continue in sequence from body of Submission (except where Attachments have been pre-printed for another purpose). . Page numbers are centred at the top of the page.
Paragraph numbering	. Each Attachment should be separately paragraph numbered (except where Attachments have been pre-printed for another purpose).
Use of Outside Material	. Material originally produced for another purpose can be labelled and paged as an Attachment. It does <u>NOT</u> have to be retyped.
Reference in Submission	. Each attachment must be referred to in the body, and the reference(s) must be underlined, for example ‘the report appears at <u>Attachment A</u> ’. . Attachments must be alphabetically sequenced in the order in which reference is first made to them in the body of the Submission.
Priority Order	. Attachments should appear in the following order: <ul style="list-style-type: none"> - responses to reports; - tabling statements; - Parliamentary Counsel's memorandum; - Bills; - Explanatory Memoranda; - Presentation Speeches; - media releases.

(f) FORMATTING AND LAYOUT REQUIREMENTS

Cabinet Submissions must be neatly and professionally presented. The following are guidelines for presentation and formatting:

Acronyms	<ul style="list-style-type: none"> Unless very well known, spell out the full name where it first appears, with the acronym following in parentheses and subsequently use the acronym only. Repeat the above process in the Recommendations; it helps make them 'free-standing'.
Cross References	<ul style="list-style-type: none"> Within the body or an attachment, refer to paragraphs by their number. Do NOT simply use the words 'above' or 'below'. Underline any reference to an attachment including, where necessary, the page number and the paragraph, table or schedule number
Font	<ul style="list-style-type: none"> Times Roman, Arial, Helvetica or equivalent fonts are acceptable. The font size must not be smaller than 12 point. Except in the case of attachments consisting of copies of documents prepared for other purposes, the same font must be used throughout.
Headings	<ul style="list-style-type: none"> Use headings in the body for each logically separate block of text. Section headings should be left justified, in UPPER CASE and bold. Where there is only one level of sub-headings, they should be in the lower case, left justified and underlined.
Highlighting	<ul style="list-style-type: none"> Highlighting of text, for example by bolding or underlining, may be applied judiciously.
Legislation	<ul style="list-style-type: none"> Include the year in the citation. Italicise the citation. If an Act is repeatedly referenced follow the first citation with ('the Act') and subsequently refer to it that way.
Length	<ul style="list-style-type: none"> The cover page and body should not exceed six pages in total. No attachment should exceed ten pages.
Margin	<ul style="list-style-type: none"> 3 cm on left edge of body and attachments is desirable.
Page Numbering	<ul style="list-style-type: none"> The cover page is page one, so the first page of the body is page two. Numbering proceeds in a single sequence to the last page of the last attachment. Do not number page 1 (the cover page) Page numbers appear at the top centre of each page.

Paragraph Numbering	<ul style="list-style-type: none"> . Paragraph one of the body is not numbered. . Other paragraphs of the body are numbered in consecutive number order. . Sub-paragraphs are alphabetic and sub-sub-paragraphs are in italic Roman, within the respective paragraph and sub-paragraph. For example: <ol style="list-style-type: none"> 2. Australia has six states with major cities as follows: <ol style="list-style-type: none"> (a) New South Wales <ol style="list-style-type: none"> (i) Sydney (ii) Wollongong (iii) Newcastle . Paragraph numbering starts afresh for each attachment. . Except in pre-printed attachments, where it may be unavoidable, 'dot dash' format is NOT permitted in the body or attachments, as numbers and letters enable easy reference in briefing or discussion.
Reproduction	<ul style="list-style-type: none"> . Must be clear and legible.
Security Classification	<ul style="list-style-type: none"> . Normally, every page is stamped 'CABINET-IN-CONFIDENCE' at its top and bottom. . Additional classification may be necessary where a document has other implications; for example, commercial confidentiality, personal privacy.
Spacing	<ul style="list-style-type: none"> . Cover page – single. Body and attachments - one and a half. . Pre-printed attachments (that is, those created originally for another purpose) need not be retyped to conform with the spacing rule, but should have appropriate page and attachment numbers added.
Style	<ul style="list-style-type: none"> . As far as possible, use the rules for presentation and spelling laid down in the <i>Style Manual for Authors, Editors and Printers of Australian Government Publications</i> (AGPS Canberra).

CORRIGENDA AND ADDENDA

CORRIGENDA

A Corrigendum can be used to correct errors or omissions in Submissions that have already been lodged and distributed. Corrigenda can also be used to provide extra details or Coordination comment received after lodgement of the original Submission. A Corrigendum should only be produced after consultation with the Cabinet Office.

A Corrigendum should not be used to make major changes to Recommendations without the **prior approval** of the Cabinet Office. Normally, if Recommendations change materially, the Submission should be withdrawn and re-lodged (with a different number) after further consultation with appropriate agencies. If this occurs, the following words should be keyed onto the cover page in bold type near the Submission number. **'THIS SUBMISSION REPLACES NO. XX, WHICH HAS BEEN WITHDRAWN'**.

Each corrigendum must be submitted by the originator of the original document and signed by the Minister. If more than one Corrigendum is required for a Submission, it may be preferable to withdraw the original document and re-lodge it (with a different number) after further consultation with appropriate agencies.

Guidelines for the formatting and arrangements of corrigenda are as follows

<p>Cover page</p>	<ul style="list-style-type: none"> • Use a cover page with the following entries: <ul style="list-style-type: none"> - place the words 'CORRIGENDUM TO' immediately before the heading Submission No.; - insert the number of the original Submission; - leave the Copy No blank (the Agency CLO will number each copy); - insert the Title of the original Submission, except if the item being amended is the title of the Submission; - insert the Minister and portfolio, followed by the date of the corrigendum. • Use the remainder of the cover page to explain how to apply the contents of the Corrigendum to the original document. For example: 'PLEASE REPLACE THE EXISTING COVER PAGE AND PAGE 5 WITH THE REPLACEMENT PAGES AND ADD THE NEW PAGE 8'.
<p>NATURE OF CHANGES</p>	<ul style="list-style-type: none"> • Corrigenda work on a 'full page replacement' basis. For example, if page 2 is amended in any way a completely new page 2 is reproduced. • Changes to documents should be clearly identified. Indicate major changes and insertions with a sideline in the margin and use asterisks in the margin to indicate minor changes (such as individual words or figures).
<p>Changes to Cover pages</p>	<ul style="list-style-type: none"> • If a lodged Submission has its cover page changed, then each copy of the replacement cover page must have the Submission number as originally assigned by Cabinet Office.

ADDENDA

Occasionally Cabinet will call for a further Submission on a topic under consideration.

This request may be for a replacement paper, or further paper to be considered alongside the original one. It may not be clear which of these is most appropriate. In such instances the drafter should seek the advice of the Cabinet Office. As a general rule a new document which replaces the one under consideration is to be preferred because this enables Ministers to focus on a single, integrated document when the matter is considered again.

Where the requirement is specifically for a further paper to be considered in conjunction with the original one, the supplementary paper becomes an ADDENDUM to the original.

Any Addendum should be completed to the same requirements as for a Cabinet Submission with the following modifications:

Cover page	<ul style="list-style-type: none"> • Use a cover page with the following entries: <ul style="list-style-type: none"> - place the words 'ADDENDUM TO' immediately before the heading Submission No.; - insert the number of the original Submission; - leave the Copy No blank (the Agency CLO will number each copy); - insert the Title of the original Submission; - insert the Minister and portfolio, followed by the date of the addendum. • Use the remainder of the cover page as for a standard Submission and to explain how to apply the contents of the Addendum relate to the original document.
-------------------	--

TIMELINE

The following is an indicative timeline for the completion of a Cabinet Submission, in calendar days. Note: a final draft of a Submission should be completed 5 weeks before the projected Cabinet date.

Time	Action
-36 days	Submission drafted and subject to informal consultation
-35 days	draft Submission provided to Minister for approval to circulate
- 28 days	draft Submission circulated to agencies (for seven working days)
-19 days	comments close
-13 days	Submission forwarded Chief Executive for clearance
-11 days	Submission forwarded Minister for approval to lodge
-7 days	lodge Submission (noon Monday prior to Cabinet)
0	Cabinet consideration

SAMPLE MOVEMENT RECORD FOR CABINET DOCUMENTS

(Refer to paragraph 6.2 of the *Cabinet Handbook*)

DOCUMENT NO:
TITLE:

COPY NO:

MINISTER:

OFFICER'S
NAME

BRANCH/
OFFICE

SIGNATURE

DATE

SAMPLE DISTRIBUTION RECORD FOR CABINET SUBMISSION
 (Refer to paragraph 11.3 of the *Cabinet Handbook*)

Director
 Cabinet Office
 Chief Minister's Department
 5th Floor
 Canberra Nara Centre

Enclosed are _____ copies of a Cabinet Submission entitled:

A total of _____ copies of the Submission have been produced.

I have arranged distribution to the following Agencies, which include all those consulted in the preparation of the document:

<u>Copy No.</u>	<u>Agency</u>
-----------------	---------------

Internal distribution is as follows:

<u>Copy No.</u>	<u>Branch</u>	<u>Officer</u>
-----------------	---------------	----------------

For further information please contact me on _____.

Date: _____ Cabinet Liaison Officer

CABINET APPOINTMENT FORM

Appendix D

Name of Board or Committee: _____

1. Is the Board or Committee created under legislation: No : If yes, what is the name of the Act? _____

2. The ACT Government is committed to achieving a target of 50% representation of women on Government Boards and Committees and to encouraging indigenous women and women from linguistically and culturally diverse backgrounds to participate in its programs of community consultations. The Government is also committed to ensuring that the needs and views of Canberra's multicultural communities are taken into account in decision making. In proposing appointments to Cabinet, have the following been taken into account?

(a) 50% representation of women	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(b) representation of indigenous women and women from linguistically and culturally diverse backgrounds	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(c) has the ACT Office for Women been consulted on the recommended appointments?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(d) representation by Canberra's multicultural community	Yes <input type="checkbox"/>	No <input type="checkbox"/>

3. Remuneration Arrangements *(include dollar figure if appropriate)*: _____

4. Is there need for consultation with any Assembly Committee? No If yes, which Committee? _____

NOMINEE (full name and title)	POSITION eg Chair, Member etc	FULL OR PART-TIME	APPOINTMENT OR REAPPOINTMENT	START DATE	EXPIRY DATE

Note: A curriculum vitae must be attached for all proposed appointees
 For assistance with section 2 above, phone Director, ACT Multicultural and Community Affairs Group, Chief Minister's Department (620 50522)

AGENCY CONTACT OFFICER:	PHONE
--------------------------------	--------------

ACT GOVERNMENT BOARD AND COMMITTEE APPOINTMENTS

This cover sheet must be attached to all appointment proposals

Name of Board/Committee:

Agency:

Agency Contact Officer:

Phone:

The ACT Government is strongly committed to encouraging and supporting diverse community representation on boards and committees. In particular, the Government recognises a need to increase the level of participation of women, people from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander people.

Some strategies that may assist you in ensuring that the participation of particular groups is maximised, are outlined over the page.

Please complete ALL sections below.

Women

What process has been followed to ensure that the Government target of at least 50% representation of women on this board/committee is met?

People From Culturally And Linguistically Diverse Backgrounds

What process has been followed to encourage representation on this board/committee from people of culturally and linguistically diverse backgrounds?

Aboriginal And Torres Strait Islander People

What process has been followed to encourage representation on this board/committee from members of the Aboriginal and Torres Strait Islander communities?

**ENCOURAGING PARTICIPATION BY WOMEN, PEOPLE
FROM CULTURALLY AND LINGUISTICALLY DIVERSE
BACKGROUNDS AND ABORIGINAL AND TORRES STRAIT
ISLANDER PEOPLE ON ACT GOVERNMENT BOARDS AND
COMMITTEES**

Participation may be encouraged by:

- ◆ **designing advertisements that specifically encourage applications from particular target groups;**
- ◆ **placing of advertisements for board and committee vacancies in media fora specially directed at target group audiences;**
- ◆ **seeking referrals of possible candidates through the ACT Women's Register and the ACT Register of Multicultural Advisers, or through the ACT Aboriginal and Torres Strait Islander Unit (*see below for contact details*);**
- ◆ **actively consulting with a range of community groups.**

You may wish to contact the Multicultural and Community Affairs Group for assistance and support with the identification of suitable candidates from particular target groups.

ACT Office for Women	620 70961
Office of Multicultural Affairs	620 76014
Aboriginal and Torres Strait Islander Unit	620 78708