

Guidance for Intergovernmental meetings

October 2020

Introduction

Guidance for Intergovernmental meetings has been developed by the Department of the Prime Minister and Cabinet (PM&C) in consultation with a number of council and ministerial forum secretariats, state and territory central and line agencies, and Commonwealth departments.

This document provides information about the structure, operations and expectations of intergovernmental meetings that operate outside the National Cabinet system. It applies to all ongoing and time-limited meetings and may also be used to guide the operations of informal meetings.

The purpose of this document is to offer best-practice guidance for meetings – both strategically and administratively. In general the approach to managing these ministers' meetings should be 'light touch' with the focus being on limiting bureaucratic processes and allowing ministers space for strategic discussions and decision-making. In line with this, there should be limited need for meeting-specific protocols in addition to this document.

In the absence of an ongoing or time-limited meeting, Ministers can meet where they wish to discuss a strategic or one off issue to advance the national interest. In such cases, these operating principles and procedures may still be used to ensure the work of the group can be executed efficiently. This, however should not be used as the basis of establishing an ongoing or time-limited meeting.

This document supersedes all previous guidance administered by PM&C and is accessible from the PM&C website.

Any questions regarding the Handbook should be referred to the Commonwealth-State Relations Branch, PM&C.

The National Cabinet system

National Cabinet replaced the Council of Australian Governments (COAG) in May 2020. COAG met biannually and was deemed unsuitable for responding to the past bushfire crises and ongoing COVID-19 pandemic.

National Cabinet is the peak intergovernmental forum in Australia. Its role is to manage matters of national significance that require co-ordinated action by all governments. This currently includes overseeing the suppression strategy for COVID-19 and pursuing economic recovery in the transition to a COVID-safe community, with a specific focus on job creation.

National Cabinet consists of the Prime Minister (Chair), and State and Territory Premiers and Chief Ministers.

National Cabinet is supported by associated bodies including the Council on Federal Financial Relations and National Cabinet Reform Committees. These bodies operate under National Cabinet rules and are not covered by this guidance publication.

Meetings

Establishing an ongoing meeting

National Cabinet has responsibility for establishing any additional ongoing meetings of Ministers but any meeting is able to disband at any time.

Any ongoing meeting must meet the following objectives:

1. **To enable national cooperation and consistency on enduring strategic issues**
Focus on shared, complex and long-term policy areas, where there are vertical interrelated roles between the different levels of government requiring sustained cooperation for effective implementation and service delivery. For example, health is a technically complex issue with defined jurisdictional roles, funding and functions. The seamless provision of health services to the community requires a cross-jurisdictional mechanism to resolve policy issues and encourage equity in service delivery, innovation and reform.
2. **To address issues requiring cross-border collaboration**
Focus on policy areas and issues where the horizontal alignment between the states and territories and complementarity of government policy or service provision improves delivery of and access to services, or employment opportunities. A recent example was the coordination required to facilitate efficient movement of freight across otherwise closed state borders during the COVID-19 crisis.
3. **To perform regulatory policy and standard setting functions**
Focus on issues related to shared legislative and regulatory requirements where a cross-jurisdictional mechanism must approve and create or update requirements for policies, standards or codes. For example, national energy policy requires the coordination of legislation, agreements and statutory bodies to coordinate operation of the national energy market, and ensure the secure provision of an affordable, reliable and secure energy grid.

National Cabinet will make any decision to establish a new ongoing meeting, taking into account these objectives.

Ministers' meetings should ensure they consult with other meetings on issues of shared responsibility.

Establishing a time-limited meeting

- A minister wishing to convene a new time-limited meeting should write to their First Minister for approval.
- The letter should set out the purpose, outcomes and duration of the group, demonstrating that it does not overlap with the work of existing meetings and that there is broad support from relevant ministers in other jurisdictions (as appropriate) for its establishment.
- The correspondence should be copied to the Secretary of the Department of Prime Minister and Cabinet to maintain central visibility of meetings.
- A time-limited meeting will automatically disband when its timeframe is reached, a maximum of 12 months.
- In exceptional circumstances, where good progress has been made on a priority item but it is not yet complete, an extension may be granted by the Chair's First Minister to allow the item to be completed.
- If a group considers it essential to re-convene, the Chair or initiating minister must repeat this establishment process.

Review of ongoing meetings

- To ensure the intergovernmental system remains focussed on key priorities, the First Secretaries Group and National Cabinet will review ongoing meetings every two years.
- Meeting chairs must submit a one-page summary of their achievements during the previous 2 years and the top three priorities (maximum) for the upcoming year to the First Secretaries Group.
- The First Secretaries Group will provide recommendations to National Cabinet on the meetings.
- Those recommendations may consider whether new ongoing meetings are required to address emerging priorities and ensure the composition of ongoing meetings remains relevant.

Disbanding a meeting

- Meetings can disband themselves and should do so when:
 - their strategic priorities are achieved, or
 - the timeframe for resolving those issues expires.
- It is incumbent upon meeting members to recognise if key outcomes have transitioned from actions to primarily information-sharing. This presents an opportunity to move away from ongoing/time-limited meetings.

Terms of Reference

- Terms of Reference should provide clear statements on:
 - The purpose of the meeting;
 - Strategic priorities and work program;
 - Timeframe for achieving these (not exceeding 12 months);
 - Design and operations of the meeting, including governance structure;
 - Membership and chairing arrangements; and
 - A sunset clause and plan for disbanding the meeting.
- Terms of Reference and administrative arrangements should be regularly reviewed to ensure they remain relevant and fit-for-purpose.

Work programs

- State, Territory and Commonwealth ministers should actively shape work programs, with priority items initiated by ministers rather than officials.
- Work programs should only deal with matters that are of significance or require national agreement.
- Meetings are to produce a forward work program that details their priority items and timeframes for completing these, to ensure meeting members remain focused on key strategic priorities.
- Work programs should be shared with other relevant meetings to provide opportunity for potential collaboration on shared priorities and to avoid overlap or duplication of priorities.

Agendas

- Ministers must set, control and review meeting agendas and not delegate these responsibilities to officials.
- Meeting agendas should focus on a small number of priority items (2-3) with defined timeframes for each priority not exceeding 12 months.

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- In the case of long term ongoing responsibilities or long-term strategic reform, these items may not lend themselves to being completed within 12 months. Complex, long-term reforms should be broken down into stages that can be progressed within 12 months. This work should be broken down into discrete, tangible deliverables that can appear on an agenda for implementation within 12 months and then drop off the agenda when completed.
 - Issues not substantially resolved within their designated timeframe should be removed from the agenda.
 - Agenda items should be initiated by State, Territory and Commonwealth ministers sufficiently in advance of a meeting taking place, to allow time for agenda items to be circulated to members (and relevant jurisdictional Cabinet consideration to occur if necessary). However the timeframe should be flexible enough to allow for the inclusion of urgent or emerging issues as required.
 - Meeting members should agree a suitable process for finalising and circulating agendas prior to the meeting, to ensure all members are adequately prepared and able to actively engage in discussion and decision making on agenda items.
 - Routine, non-controversial or technical matters should be progressed out-of-session or be delegated to officials.
 - Formal agenda papers are not a standard requirement for meetings, however meeting members may want to provide additional information to facilitate discussion.
 - Agenda papers should be drafted by the jurisdiction leading on the item and circulated in a timely manner.
 - Consensus by officials is not required before papers proceed to Ministers, but the Commonwealth departmental secretary should review prior to distribution.
 - Provided it is consistent with the above, the Chair should not deny any reasonable request by ministers to include an item on the agenda.

Frequency and format of meetings

- Meetings should be held on an as-needed basis, to best address and resolve priority issues within the agreed timeframes.
- Meetings should be held via videoconference or teleconference wherever possible, with face-to-face meetings limited to one or two per year.
- In considering timing and frequency of meetings of ministers or officials particular regard shall be had to the interests of and impacts on smaller or more distant jurisdictions.
- Joint meetings with other groups on issues of shared responsibility should be held as required.
- Meetings can be held during a caretaker period but this should be avoided where possible. Attendance and decision making will be assessed on a case-by-case basis consistent with caretaker convention/guidelines in the relevant jurisdiction.

Membership

- Forums should comprise Ministers from the Commonwealth, states and territories.
- New Zealand and the Australian Local Government Association should be represented where relevant.
- Jurisdictions should determine the relevant ministerial representative depending on the work program of the meeting.
- Ministers are to have a maximum of two officials (including one adviser where necessary) supporting them in meetings, to allow for open discussions.

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- Guests and experts should only attend for relevant agenda items.
 - Wherever possible the aim should be for all members to be represented at a meeting.

Use of expert advisory groups

- Ministers may assemble expert groups to advise them as required, including presenting at meetings.
- Meetings should rely on existing groups where possible, rather than establishing new groups.
- Any newly formed group should be assembled for a specific purpose and timeframe.

Role of senior officials groups

- Officials groups should be kept to a minimum, to reduce the number of layers of bureaucracy and streamline the processes surrounding how meetings function.
- Officials should not have a formal role in approving papers or reaching consensus on issues ahead of Ministerial consideration.
- Ministers may delegate routine, technical or other matters to officials as considered appropriate.

Secretariats

Meetings should not have dedicated secretariats.

Secretariat functions such as scheduling meetings, distributing agendas and other administrative functions specified in these procedures should be undertaken by the relevant Commonwealth Department and are the responsibility of the Departmental Secretary.

The Commonwealth Secretary is required to work with jurisdictional counterparts to:

- oversee the commissioning and development of papers when required;
- report on progress of items at meetings; and
- maintain a list of matters previously dealt with.

Formal agenda papers are not a standard requirement for meetings, however meeting members may want to provide additional information to facilitate discussion. Agenda papers should be drafted by the jurisdiction leading on the item and circulated in a timely manner. Consensus by officials is not required before papers proceed to Ministers, but the Commonwealth Departmental Secretary should review prior to distribution.

Chairing arrangements

- Unless otherwise decided by consensus between meeting members, a Commonwealth minister will chair meetings, as well as representing the Commonwealth's position in discussions and decision making.
- The Chair has a strategic role to play in ensuring the council/forum operates effectively and collaboratively to deliver outcomes requiring joint action by Commonwealth, State, and Territory governments.
- The Chair's responsibilities are to:
 - have a thorough understanding of the meeting agenda and maintain a focus on achieving outcomes;
 - ensure all agenda items are discussed within the allocated time;
 - encourage full participation by all members;
 - ensure contentious issues are debated in a professional manner and mediate when conflict arises; and
 - facilitate decision-making by consensus where possible.
- The Chair should not deny any reasonable request by ministers to include an item on the agenda.

Decision making

- Where appropriate, decisions should be principles-based and allow individual jurisdictions to determine the best way to achieve any agreed outcomes.
- Where possible, decisions should be consensus based, noting that some decision-making and voting arrangements are set out in legislation.
- Consensus occurs when those involved in decision-making reach agreement, or come to a common understanding on an approach to a matter or a response to a situation, without any active opposition to the course of action.
- Where consensus or resolution cannot be reached on an agenda item in the established timeframe, consideration should be given to progressing an item through agreement between the Commonwealth and smaller groups of states and territories.

Out-of-session process

The Out-of-Session (OOS) process should be used when items do not require discussion for decision making or where the urgency of the item requires it to be finalised ahead of the next scheduled meeting. Items for information or noting can also be progressed OOS.

Ministers should agree to a suitable OOS process, including:

- Delegation of OOS items to Senior Officials, if appropriate
- Who will be responsible for coordinating the OOS
- Voting or endorsement procedure
- Response times

Record keeping

- Meeting members should agree a suitable process for recording decisions and actions agreed by ministers and ensure they are circulated to all members to ensure accountability.
- Records of meetings should be provided to members of meetings and agreed before being finalised.
- These may be shared with other meetings, groups or agencies as needed, to ensure collaboration among meetings with related priorities.
- Where formal note-takers are required, they should be limited to one Commonwealth and one state note-taker.

Freedom of information requests

Where a request is made to make a document public through a Freedom of Information (FOI) request, a request from a Royal Commission, or some other avenue, the relevant jurisdiction's FOI legislation should be followed and views on the public release of a document must be sought by all members prior to publication.

Regulatory impact assessment

Meetings are required to address the Office of Best Practice Regulation's Regulatory Impact Assessment Requirements, available at www.pmc.gov.au/regulation. The OBPR provide streamlined requirements that apply to intergovernmental meetings only.

This includes the preparation of Regulation Impact Statements (RISs) for all major intergovernmental decisions affecting business, individuals and/or community organisations, unless the proposal would result in regulation that is minor or machinery in nature and would not substantially alter existing arrangements.

Interaction with National Cabinet bodies

Consistent with the direction set by National Cabinet, there is no direct link between National Cabinet or the National Federation Reform Council and meetings, unless directly tasked by one of those bodies. The onus is on ministers to resolve issues directly.

Ministers' meetings will engage with the Council on Federal Financial Relations (CFFR) with respect to National Partnerships and other funding agreements, with CFFR to determine their level of involvement in development and negotiation.

National Cabinet Reform Committees (NCRCs) will be set up progressively by National Cabinet to support its objectives of job creation and COVID-19 recovery. Membership of each NCRC will be nominated and agreed by National Cabinet but will likely include relevant ministers from the Commonwealth and states and territories, and other representatives as appropriate.

National Cabinet will task NCRCs with high priority strategic reform projects as required. NCRCs will operate as committees of National Cabinet under the Federal Cabinet guiding principles and they will be task-oriented and time-limited, only working on specific, short-term and strategic reforms assigned by National Cabinet. NCRCs will disband when determined by National Cabinet.

Where an NCRC entirely overlaps with the work of a ministers' meeting with the same membership, or where high priority NCRC matters require focused attention, ministers may choose to hibernate the corresponding ministers' meeting until NCRC is disbanded.

A ministers' meeting may be required even where an NCRC exists, to enable ministers to progress non-NCRC priorities outside of the Cabinet system. Where there is both an NCRC and ongoing or time-limited meeting, the division of responsibilities between the two must be clearly established to ensure there is no duplication.

The National Federation Reform Council (NFRC) comprises National Cabinet (First Ministers), CFFR (all Treasurers), and the Australian Local Government Association (ALGA). Membership of the NFRC reflects the important role that all three levels of government play in the Australian federation. The NFRC will meet once a year to focus on priority national federation issues and operates outside of the Cabinet guiding principles. The NFRC is not an escalation point for ministerial forums, particularly considering it will only meet once per annum.

Public communications

Outcomes of meetings should be publicly communicated either via a press release from the meeting Chair or a short communique drafted in the room.