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| Cabinet Handbook  February 2023 |

Contents

[Introduction 4](#_Toc121319944)

[Key features of the Victorian Cabinet system 5](#_Toc121319945)

[Parliament and Ministers 5](#_Toc121319946)

[Governor of Victoria and Executive Council 5](#_Toc121319947)

[Cabinet 6](#_Toc121319948)

[Cabinet Committees 6](#_Toc121319949)

[Roles and responsibilities 7](#_Toc121319950)

[Cabinet Conventions 10](#_Toc121319951)

[Administration of Cabinet and Committees 11](#_Toc121319952)

[Matters for Cabinet 11](#_Toc121319953)

[Matters for Cabinet Committees 12](#_Toc121319954)

[Cabinet and Committee process 13](#_Toc121319955)

[Registration of Cabinet and Cabinet Committee items 13](#_Toc121319956)

[Urgent Committee meetings 13](#_Toc121319957)

[Submission lodgement 14](#_Toc121319958)

[Distribution of Cabinet Agenda and items 15](#_Toc121319959)

[Distribution of Committee Agenda and items 15](#_Toc121319960)

[Committee attendance 16](#_Toc121319961)

[Cabinet decisions and their implementation 17](#_Toc121319962)

[Committee decisions 17](#_Toc121319963)

[Out of Session consideration 18](#_Toc121319964)

[Types of Cabinet and Cabinet Committee submissions 19](#_Toc121319965)

[Policy proposals (including Matters for Endorsement) 19](#_Toc121319966)

[Legislation proposals 19](#_Toc121319967)

[Approval in Principle (AIP) 19](#_Toc121319968)

[Exposure Draft 20](#_Toc121319969)

[Bill at Cabinet (BAC) 20](#_Toc121319970)

[Joint AIPs/BACs 21](#_Toc121319971)

[House Amendments 21](#_Toc121319972)

[Private Member’s Bills 21](#_Toc121319973)

[Reports 22](#_Toc121319974)

[Appointments 22](#_Toc121319975)

[Matters for Information (MIs) 22](#_Toc121319976)

[Committee Reports 22](#_Toc121319977)

[Cabinet Committee submissions 22](#_Toc121319978)

[Presentations to Cabinet or Committees 22](#_Toc121319979)

[Appointments 24](#_Toc121319980)

[Which appointments require Cabinet approval? 24](#_Toc121319981)

[Timing of appointment submissions 25](#_Toc121319982)

[Composition of board membership 25](#_Toc121319983)

[Remuneration 26](#_Toc121319984)

[Declarations of Private Interests, conflict of interest and probity checks 26](#_Toc121319985)

[Curriculum Vitae (CV) 27](#_Toc121319986)

[Instruments of Appointment 27](#_Toc121319987)

[Writing Cabinet submissions 28](#_Toc121319988)

[General principles of a quality Cabinet submission 28](#_Toc121319989)

[Planning for quality outcomes 28](#_Toc121319990)

[Analysis and impact assessments 28](#_Toc121319991)

[Coordination Comments 30](#_Toc121319992)

[Composition of a submission 30](#_Toc121319993)

[Cabinet document management and security 32](#_Toc121319994)

[Access to Cabinet information 32](#_Toc121319995)

[Cabinet-in-Confidence (CiC) classification 32](#_Toc121319996)

[Storage 33](#_Toc121319997)

[Distribution and tracking of Cabinet documents 33](#_Toc121319998)

[General return of Cabinet documents 34](#_Toc121319999)

[Requests for access to Cabinet documents 36](#_Toc121320000)

[Documents of previous governments 36](#_Toc121320001)

[Audit Act 1994 36](#_Toc121320002)

[Freedom of Information 36](#_Toc121320003)

[Discovery of Cabinet documents in litigation 37](#_Toc121320004)

# Introduction

Cabinet is the forum of Ministers which decides major policy for the Victorian Government. Comprising all Ministers of the Crown, Cabinet considers questions of policy, administration and legislation.

Victorian Government agencies play a critical role in providing advice to Cabinet and its Committees.

Cabinet’s success relies on a well-functioning system: high-quality documents and advice, timely circulation for consideration, and appropriate levels of security.

The Cabinet Handbook outlines:

* the place of Cabinet within the broader system of Executive Government
* the underlying principles of Cabinet
* general expectations for Cabinet business and meetings
* processes for appointments
* components of a quality submission, and
* management and security of Cabinet documents.

The Handbook has been developed as a resource for Ministers, ministerial staff and public officials involved in the development and progression of Cabinet business.

# Key features of the Victorian Cabinet system

In Victoria, Cabinet is the body through which significant decisions of the Government are determined. Cabinet decisions may require action through:

* + The Parliament
  + The Governor
  + Individual Ministers
  + Holders of a statutory office.

## Parliament and Ministers

Cabinet operates within the broader context of the Executive Government of Victoria.

The *Constitution Act 1975* provides that the legislative power of the State is held by a Parliament comprising His Majesty, the Legislative Assembly and the Legislative Council. Members of Parliament are democratically elected, and governments are formed based on the ability to command the support of a majority of members in the Legislative Assembly.

There are 88 Members of the Legislative Assembly and 40 Members of the Legislative Council. Members of the Legislative Assembly are elected through preferential voting, while members of the Legislative Council are elected by a method of proportional representation.

The State consists of eight Legislative Council electoral regions, which return five Legislative Councillors each. Every Legislative Council region consists of 11 Legislative Assembly electoral districts, with each Assembly district returning one Legislative Assembly Member to Parliament.

The party that forms Government may elect, or the Premier may nominate, a number of its Members of Parliament to be Ministers. Ministers of the Crown are appointed by the Governor on advice of the Premier.

Section 50 of the *Constitution Act 1975* establishes that the number of Ministers may not exceed 22; no more than six Ministers can be drawn from the Legislative Council and no more than 17 can be drawn from the Legislative Assembly. By convention, the Premier is a Member of the Legislative Assembly.

## Governor of Victoria and Executive Council

Under the *Constitution Act 1975* and the *Australia Act 1986* executive power is vested in the Crown and is exercised by the Governor as the King’s representative. The King, on the advice of the Premier, appoints the Governor of Victoria.

The role of the Governor can be divided into four broad parts – constitutional duties, ceremonial functions, engagement with the Victorian community, and international engagement.

The Executive Council is established under section 87A of the *Constitution Act 1975* and consists of all current and former Ministers. However, only current Ministers can attend Executive Council meetings. Four Ministers are required to attend Executive Council meetings, with the Governor responsible for chairing the meeting.

The Executive Council advises the Governor (‘Governor in Council’) when they are required by law or convention to act in accordance with the advice of the Executive Council, and when they are permitted or required by statute or other instrument to act in Council.

## Cabinet

Cabinet is the principal decision-making body for the Victorian Government and comprises all Ministers of the Crown. In Victoria, Cabinet considers questions of policy, administration and legislation.

The Premier, as the leader of the Government, chairs Cabinet. Cabinet is a formal meeting of Ministers but has no legal powers, nor is there any reference to Cabinet in Victoria’s Constitution. By virtue of the authority accorded to Cabinet, and in the Westminster tradition, it is the body through which significant decisions of the Government are determined.

Cabinet considers significant matters of state, including major policy issues, legislation, matters likely to impact relations with local, other state and Commonwealth governments, and significant appointments.

Matters to be discussed at Cabinet are requested by the responsible Minister for inclusion on the Cabinet agenda via the Cabinet Secretary.

Cabinet is attended by the Premier and Ministers, the Cabinet Secretary, the Premier’s Chief of Staff, and the Secretary of the Department of Premier and Cabinet. In some circumstances, and with the approval of the Premier, guests may attend for particular items.

## Cabinet Committees

Cabinet is supported by a number of Cabinet Committees, which focus on specific subjects (e.g. security) or functions (e.g. legislation). Cabinet Committees are established by a decision of the Premier or Cabinet.

Guided by their Terms of Reference, Cabinet Committees provide a forum for detailed discussion and analysis of options and consideration of issues from a broad cross-portfolio perspective.

The Committee structure comprises three types:

* Standing **Committees**: ongoing committees that report directly to Cabinet, support its decision-making role and provide oversight of Sub-Committees and Taskforces
* **Sub-Committees**: ongoing committees that support a specific whole of government policy area, allow for broad Ministerial representation and support standing Committees
* **Taskforces**: time-limited committees that develop, implement and oversee the delivery of a specific policy, or related set of policies.

DPC provides secretariat support for all three groups.

Ministerial Working Groups (MWGs) support Cabinet decision-making, but do not form part of the Cabinet Committee structure. MWGs may include members from outside of Government and are supported by the department supporting the MWG Chair. MWGs should only be established with the approval of the Premier or Cabinet.

## Roles and responsibilities

### Premier

The Premier determines the structure and terms of reference for Cabinet Committees, appoints Ministers as Chairs and members, chairs Cabinet meetings, and chairs or delegates chairing for Cabinet Committees. Through the Cabinet Secretary, the Premier approves the final agenda for Cabinet and Premier-chaired Committee meetings.

### Ministers

Ministers are responsible for the administration of designated portfolio areas. All Ministers are required to attend each Cabinet meeting, unless their absence is agreed by the Cabinet Secretary (on the Premier’s behalf).

Ministers present submissions that propose legislation, policy and other matters relevant to their portfolio. They are supported by relevant Victorian Government department/s and/or agencies in the development of these submissions.

Ministers are responsible for the submissions they present to Cabinet. They must ensure appropriate consultation takes place and that Cabinet information is handled in accordance with Cabinet conventions. They must also ensure that their submissions are high quality and meet the required timeframes.

Ministers to whom the Premier has delegated chairing responsibilities for a Cabinet Committee are responsible for oversight of the Committee agenda (with the Cabinet Secretary) and for effective management of meetings, including appropriate attendance, approval of presentations and timely finalisation of minutes.

Ministers attending meetings of Cabinet or Cabinet Committees must declare any private interests held by them, or members of their immediate families, in relation to the matters before the meeting. Ministers should advise the Premier of any conflict of interest. This advice will be tendered at Cabinet and a record made by the Cabinet Secretary that the Minister declared their pecuniary interest or conflict of interest and withdrew from the Cabinet or Committee Meeting when determined necessary.

### Cabinet Secretary

The Cabinet Secretary works with the Premier, Ministers and their offices in ongoing oversight of Cabinet, Committees and legislation, including:

* + setting and coordination of Cabinet and Committee agendas and forward programs to achieve an orderly handling of Cabinet and Committee business
  + ensuring appropriate consultation occurs in the Cabinet process in accordance with the Government’s policy and procedural requirements
  + implementing and ensuring compliance with agreed Cabinet and Committee protocols and processes
  + advising on issues involving the receipt and distribution of Cabinet and Committee submissions, recording the decisions of Cabinet and providing further support as required
  + assisting in settling the record of Cabinet decisions, in consultation with the Secretary, Department of Premier and Cabinet (DPC), and Ministers where required
  + assisting in management and coordination of the legislation program
  + monitoring work commissioned through Cabinet Committees, for example requests for report backs
  + arranging Ministerial attendance at Executive Council meetings and, in exceptional circumstances, approving matters for Executive Council consideration the day following consideration by Cabinet.

### Parliamentary Secretaries

Parliamentary Secretaries are Members of Parliament appointed by the Premier to support Ministers to carry out some of their responsibilities. Parliamentary Secretaries are not part of the Executive Government of Victoria; they are not members of Cabinet and do not attend Cabinet meetings, though they may attend Committee meetings as observers. However, as Parliamentary Secretaries can support Ministers in the Cabinet process, they are bound by the Cabinet conventions outlined below.

Parliamentary Secretaries may attend Cabinet Committee meetings at the invitation of the Premier but are not standing members. A Parliamentary Secretary’s attendance at a Cabinet Committee meeting is solely to support a Minister who is a member of that Committee.

### Secretary, DPC

The Secretary, DPC leads the Victorian Public Service (VPS) and is the VPS’s principal adviser to the Premier. The Secretary attends Cabinet and supports the Cabinet Secretary in recording the decisions of Cabinet.

The Secretary is also responsible for the administration of DPC. This includes being the custodian of Cabinet documents for the current and previous governments to ensure their security and preservation (see Section 7 for further information about Cabinet document management and security).

### Cabinet Office, DPC

The Executive Director, Cabinet Office is responsible for the administration of the Cabinet process and supports the Cabinet Secretary in their role.

On behalf of the Secretary, DPC, the Executive Director acts as the custodian of Cabinet documents for the current and previous governments to ensure their security and preservation, until transferred to the Public Record Office of Victoria (PROV).

The role of Cabinet Office is to:

* + provide expert impartial advice on Cabinet systems and processes to support core Government operations
  + support Cabinet, Committees, the Premier, the Cabinet Secretary, and the Secretary, DPC in the conduct of Cabinet and Committee business
  + receive, process and distribute submissions for consideration by Cabinet and Committees
  + assist the Cabinet Secretary with Cabinet and Committee programming and agenda setting to ensure effective use of Cabinet’s time
  + maintain a record of Cabinet and Committee decisions
  + advise departments and agencies on Cabinet and legislation processes and requirements
  + coordinate the legislation program, including its relationship with the Cabinet agenda
  + ensure the security and preservation of Cabinet records
  + support Victorian Auditor-General’s Office, Freedom of Information and litigation requests for access to Cabinet and Committee documents
  + provide support for meetings of the Executive Council.

### Departments

Departments establish internal processes to brief portfolio Ministers on relevant Cabinet and Committee items. Departments also manage the development of advice on coordination submissions to inform lead departments of issues across their portfolios. Departments are responsible for internal communication of relevant decisions of Cabinet or Committees, monitoring the implementation of Cabinet or Committee decisions led by their portfolio Ministers, and secure records management of CiC material.

### Office of the Chief Parliamentary Counsel (OCPC)

OCPC provides the State of Victoria with high-quality services related to the development, drafting, publication and implementation of legislation.

OCPC drafts legislation on the authority of Cabinet or the Premier. In performing this function, OCPC works with departments to settle drafting instructions for Cabinet’s approval. Bills are then drafted for final endorsement at Cabinet and subsequent introduction into Parliament.

OCPC also settles, certifies and advises on statutory rules, Rules of Court and other subordinate legislation, drafts House Amendments, and provides a range of legal and administrative advice to Government on legislation and Parliamentary matters.

### Cabinet and Legislation Liaison Officers (CLLOs)

CLLOs are the point of contact in each department for information and guidance on Cabinet and are usually members of the department’s Cabinet Team. The role of the CLLO includes:

* + providing advice on Cabinet processes and protocols and ensuring the timely lodgement of submissions
  + being the central point of contact for Cabinet Office and other departments on Cabinet matters relating to their department
  + monitoring, coordinating and forecasting Cabinet business of the Minister/s and department and keeping Cabinet Office informed of developments
  + ensuring submissions and all attachments, including second reading speeches and Statements of Compatibility with the *Charter of Human Rights and Responsibilities Act 2006,* adhere to the procedural requirements outlined in this Handbook
  + overseeing access to, and security of, Cabinet documents held within their department.

## Cabinet Conventions

As with other Westminster Governments, Cabinet is not established by statute, and its strength is maintained via adherence to a number of principles focused on shared purpose, and robust deliberation.

### Collective responsibility

Cabinet decisions are collective and binding on all Ministers as government policy. Accordingly, all Ministers give their support in public debate to the collective decisions of Cabinet, even if they do not agree with them.

### Confidentiality

The openness and frankness of discussions in the Cabinet room are protected by the strict observance of confidentiality. Except in the event that Cabinet agrees to public release of its deliberations, all Cabinet information (including verbal and written) must be kept strictly confidential and secure at all times.

Unauthorised or premature disclosure of Cabinet deliberations may be prejudicial to the proper consideration of an issue by government and can be damaging to the public interest.

### ‘Need to know’ principle

To maintain Cabinet confidentiality, access to Cabinet information is tightly controlled and is distribution should be determined on a ‘need to know’ basis. Cabinet documents, both hard copy and digital, need to be managed in accordance with the *Public Records Act 1973* and standards issued by the Keeper of Public Records.

Ministers and department Secretaries are responsible for having appropriate procedures in place for managing the security of all Cabinet information in their office and their relevant department or agency/agencies.

# Administration of Cabinet and Committees

## Matters for Cabinet

Cabinet considers major or significant policy issues. Types of submissions for Cabinet consideration include those:

* + requiring new legislation
  + relating to whole of Victorian Government policies and programs
  + with a significant impact on either public or private sector investment and employment
  + establishing new non-departmental entities
  + relating to significant intergovernmental matters
  + relating to reports and other major policy reviews which require a Victorian Government submission/response
  + to make certain appointments to public boards as specified in the [*Appointment and Remuneration Guidelines*](https://www.vic.gov.au/sites/default/files/2022-06/Appointment-and-Remuneration-Guidelines-%28effective-1-July-2022%29.docx).

Items proposed for Cabinet consideration may first require consideration by a Cabinet Committee, especially for policy matters which require consultation across Government.

The following submission types are used for Cabinet:

|  |  |  |
| --- | --- | --- |
| **Submission type** | **Description** | **Template** |
| Approval in Principle (AIP) | Seeking Cabinet approval in principle for the drafting of a Bill | General submission |
| Bill at Cabinet (BAC) | Seeking Cabinet approval of a Bill and supporting documents prior to introduction to Parliament | BAC or BAC Committee submission |
| House Amendment | Seeking amendment to a Bill which has been introduced in Parliament | BAC |
| Exposure Draft (ED) | Seeking Cabinet approval to publicly release a Draft of a Bill for stakeholder input between Approval in Principle and BAC | ED |
| Policy Proposal | Seeking Cabinet endorsement of a new policy or major reform proposal, or seeking to settle a policy position prior to the development of an AIP or BAC proposal | General submission |
| Victorian Parliamentary Report | Submission seeking Cabinet endorsement of a Whole of Victorian Government response to a Parliamentary Committee | General submission template |
| Other Victorian Government reports | Seeking Cabinet endorsement of a Whole of Victorian Government response to an independent Victorian body (e.g. Victorian Commission for Gambling and Liquor Regulation) | General submission template |
| External reports | Seeking Cabinet endorsement of a Whole of Victorian Government external report/response (e.g. submissions to Commonwealth Inquiries) | General submission template |
| Matter for Information | Matter for noting by Cabinet rather than endorsement | General submission without coordination template |
| Appointments | Seeking Cabinet approval for appointments to particular Government bodies | Appointment submission template |

### Officer’s Papers

Occasionally Officer’s Papers may be provided to Cabinet or a Committee. These submissions are signed by senior officials (at least Deputy Secretary level) and must be clearly distinguishable from submissions signed by Ministers. The submission title must clearly indicate that the paper is being presented by an Officer, not by a Minister.

Section 4 provides further detail and guidance on the submission types used for Cabinet.

## Matters for Cabinet Committees

Two types of matters are considered by Cabinet Committees:

* + **Matter for Endorsement (ME):** Submission on a matter for endorsement by a Committee. For example, policy proposals are often first considered by a Cabinet Committee to help determine policy objectives and allow for consideration of options and critical issues before the policy is implemented or developed into legislation.
  + **Matter for Noting (MN):** Submission on a matter for noting by Committee rather than endorsement.

# Cabinet and Committee process

Many Cabinet and Committee submissions follow a common process:

* + Registration for a meeting
  + Draft submission for coordination comment
  + Final submission lodged for distribution
  + Agenda approval of proposed item by Cabinet Secretary
  + Distribution of submission with final agenda
  + Departmental briefing/s to portfolio Minister/s
  + Meeting deliberation and decision
  + Meeting record.

## Registration of Cabinet and Cabinet Committee items

Ministers require Cabinet Secretary approval to register or move items on the Cabinet agenda, as well as for Committees chaired by the Premier. This is to ensure that the item and its pathway onto the agenda are approved at Ministerial level. Registration also assists with meeting scheduling and agenda-setting.

Approval in Principle (AIP) and Bill at Cabinet (BAC) submissions will be registered on the relevant Cabinet agendas in accordance with the dates on the legislation program. Subsequent to this, departments (on behalf of their Minister/s) will be required to submit a registration request to seek to move any AIP or BAC to another Cabinet date.

For all other submission types, departments (on behalf of their Minister/s) are required to:

* + work with Cabinet Office on a forward program of items proposed for Cabinet consideration over the next 12 months
  + confirm submission readiness with a registration form submitted four weeks prior to the proposed consideration date
  + submit revised registration forms for changes to already registered items
  + submit appointment registration forms (which must include candidates’ names, remuneration and CVs) four weeks prior to the Cabinet meeting date.

Cabinet Office consults with departments via their CLLOs on forthcoming items for Cabinet consideration, including both potential and confirmed items for future Cabinet agendas. CLLOs should work closely with relevant policy and program teams within departments to monitor items which will need Cabinet or Committee consideration.

The Registration Form template is available from the Cabinet Office. Registration forms for Committee items that have been deferred for Committee consideration by Cabinet should cite the date on which Cabinet made the decision to defer.

Late changes to the agenda require written approval from the Cabinet Secretary.

## Urgent Committee meetings

A Committee may be called at short notice in response to immediate security and emergency conditions (e.g. floods and extreme weather). Given the need for regular updates in rapidly changing circumstances, an abridged process is required to ensure sufficient time to both prepare and lodge urgent materials as well as allow for review to occur and briefings to be prepared. Timelines will be established for each Committee, however the standard practice is for items to be lodged and circulated at by 5pm the day prior to a meeting, with a draft agenda circulated by 12pm the day prior to the meeting.

## Submission lodgement

### Cabinet and Cabinet Committee submissions

A Minister uses a submission to put a proposal to Cabinet or a Committee for deliberation and decision. A quality submission enables informed and effective decision making. Submissions must be clear and concise, detail key issues, and contain clear recommendations.

A well-developed submission should clearly outline issues and options for consideration including implementation opportunities and risks, and be supported by evidence and appropriate consultation with relevant groups. Further advice on the preparation of Cabinet submissions is at Section 6.

There are two stages of the submission lodgement process: draft coordination and final submission. All Cabinet submissions must undergo coordination except Bills at Cabinet, House Amendments, Matters for Information and Appointments. Exemptions are granted by the Cabinet Secretary only in exceptional circumstances.

For prescribed Committees, Matters for Endorsement require departmental coordination prior to Committee consideration.

A digital copy of the coordination and final submission and its attachments must be provided to Cabinet Office via the VicPortal. The digital copy must be one document that includes the pdf content-searchable submission and any attachments. It should be accompanied by a signed Certificate of Endorsement.

### Coordination submissions

Coordination submissions are distributed to departments for formal comment prior to Cabinet or Committee consideration. All departments are invited to review coordination submissions; however they may determine that no comment is required. Coordination provides departments with an opportunity to liaise with the lead department about issues and risks arising from the submission, and provide feedback on potential changes.

To ensure proper consultation with all departments, coordination submissions must be lodged on the VicPortal **no later than 12.00pm, 14 business days** before the Cabinet meeting at which the matter is scheduled for consideration (taking into account public holidays).

Departments then have **three business days** to provide coordination comments to the authoring department. Departments are responsible for ensuring the appropriate level of authorisation for comments.

These comments are then included towards the end of a Cabinet submission (further information is contained within the general Cabinet submission template).

### Cabinet submission deadlines

Adhering to deadlines for the lodgement of Cabinet submissions and coordination comments ensures that Ministers have sufficient time to review and seek advice on Cabinet items ahead of Cabinet’s consideration.

Cabinet submissions listed or proposed for a meeting must be lodged **no later than 12.00pm, five business days** before the Cabinet meeting. Ministers seeking to lodge submissions after this time must seek the Cabinet Secretary’s approval for late lodgement. Once approved, Minister’s offices should then advise their department CLLO team, who will finalise lodgement with the Cabinet Office.

### Committee submission deadlines

Committee submissions must be lodged with Cabinet Office via the VicPortal **by 12.00pm at least five business days prior** to the Committee meeting if on a Monday. For meetings held on Tuesdays or later in the week, submissions must be lodged six business days before the Tuesday of that week. Ministers seeking late lodgement must obtain the Cabinet Secretary’s approval via the Committee Chair (or Cabinet Secretary for Committees chaired by the Premier). Once approved, Minister’s offices should then advise their department CLLO team, who will finalise lodgement with the Cabinet Office.

### Joint submissions

Ministers may decide that a submission should be prepared jointly with another minister/s. Joint submissions require the sponsoring Ministers to agree to the recommendations and content of the submission and to sign the submission.

## Distribution of Cabinet Agenda and items

Ministers and Secretaries receive the upcoming meeting’s draft Agenda and lodged Cabinet submissions four business days before the meeting and the previous Cabinet meeting’s draft record four business days before the meeting.

The Cabinet Secretary confirms the Agenda after the Premier is briefed by DPC on items registered for Cabinet’s consideration. Ministers and Secretaries then receive the confirmed Agenda, certified record of the previous Cabinet meeting and approved late Cabinet submissions one day before the Cabinet meeting. In the event that items involve highly sensitive information, the Cabinet Secretary may direct that the item is for Ministers’ Eyes Only (MEO). MEO items are restricted to Ministers and key staff as directed by the Cabinet Secretary.

Urgent or sensitive items proposed for Cabinet consideration after the final agenda and submissions have been distributed require the approval of the Cabinet Secretary. If this occurs on the same day as the meeting, contact the Cabinet Office to discuss as early as possible. -

## Distribution of Committee Agenda and items

Committee papers will be distributed **4 business days prior** to the meeting via the VicPortal, with final circulation of papers and confirmation of the agenda to occur **two business days prior** to the meeting.

Urgent or sensitive items proposed for Committee consideration after the final agenda and submissions have been distributed require the approval of the Chair or the Cabinet Secretary (for Committees chaired by the Premier). If this occurs on the same day as the meeting, contact the Cabinet Office to discuss as early as possible.

Copies of documents tabled during Committee meetings must be supplied to Cabinet Office as soon as possible following the meeting. This includes documents such as slides supporting a verbal presentation.

## Committee attendance

Cabinet Office arranges all Committee meetings for the calendar year in accordance with a schedule agreed by the Cabinet Secretary, in consultation with the Committee Chair, with any subsequent changes to meeting dates approved by the Cabinet Secretary.

Committee membership is open to Cabinet members only. The Cabinet Secretary may attend Committee meetings and contribute to discussion but cannot be considered as part of the quorum for decision-making.

In order to maintain the confidentiality and security of Committee discussions and decisions, attendance at Committees is restricted.

A quorum, consisting of the Chair (or Acting Chair) and two other Ministers, is required for Committee decision making. It is desirable that a Committee be quorate throughout the meeting. At the direction of the Chair, additional Ministers may be invited to a particular Committee meeting to enable a quorum to be attained.

In general, for Committees, attendance by departmental officials is restricted to the Committee Secretary and two senior level representatives each from DPC and Department of Treasury and Finance (DTF). During consideration of the State Budget, up to three senior level officials from DPC and DTF may attend. Any other variations will be specified in the Committee’s Terms of Reference.

The Chair may have an additional senior level representative from their supporting department. For any additional attendees, the approval of the Chair is required.

Ministers presenting a submission are invited to attend by Cabinet Office at the direction of the Chair. If the Minister is not able to attend, they must delegate responsibility for presenting the paper to another Minister.

Presenting Ministers may bring one ministerial adviser and one departmental official to the meeting for the relevant item only. Departmental officials support the presenting Minister/s by providing additional information or clarification if requested. It is not the role of the departmental official to provide support to non-presenting Ministers or to participate in decision-making.

### Notification of non-attendance

If a Minister is unable to attend a Cabinet meeting, they should advise the Cabinet Secretary in writing as soon as possible and prior to the commencement of the meeting.

## Cabinet decisions and their implementation

The Cabinet Secretary and the Secretary DPC record the decisions of Cabinet meetings. Following each meeting the Cabinet Record is verified by the Secretary DPC and the Cabinet Secretary and then approved for circulation as a draft to Ministers one to two business days after the meeting. Ministers and Secretaries have until the next business day to provide feedback on the draft Record.

The certified Record is then distributed two business days before the Cabinet meeting. The Premier, as Chair of Cabinet, signs the certified record prior to the meeting.

Ministers and departmental Secretaries are responsible for the communication and implementation of Cabinet decisions. Ministers usually confer with departmental Secretaries after a Cabinet meeting, particularly on matters relevant to their portfolio. Written or verbal instructions should be used to inform officers of Cabinet decisions and to advise on implementation strategies, consistent with the convention of Cabinet confidentiality.

The relevant Minister may implement decisions of Cabinet through:

* + issuing a decision or instruction to the department
  + making a recommendation to the Governor in Council
  + introducing a Bill to Parliament
  + Other mechanisms as appropriate.

Ministers should establish procedures with their departments to ensure that decisions are implemented in accordance with any timetable agreed by Cabinet.

Where decisions affecting more than one portfolio are taken, it is the responsibility of the proponent Minister to ensure that the relevant Minister/s and department/s are appropriately involved in their implementation.

Where a joint submission is agreed, the respective Ministers should set an agreed implementation process in place.

Cabinet Office holds the approved Cabinet Record. Where a decision involves the preparation of legislation, an extract is provided to the Chief Parliamentary Counsel.

## Committee decisions

Decisions of a Committee are the prerogative of Ministers who are Committee Members only, unless (at the direction of the Chair) additional Ministers have augmented the membership of a Committee for a particular item or items.

Cabinet Committees derive their mandate from Cabinet. Generally, Cabinet Committee decisions are brought back to Cabinet for endorsement prior to action.

Committees report to Cabinet in the form of Committee minutes.

Minutes are a self-contained record of meeting outcomes. Committee minutes are to be prepared immediately after a meeting and progressed to the Committee Chair for approval at the earliest possible time.

## Out of Session consideration

In exceptional circumstances, Ministers may request matters to be considered out of session. Consultation must occur with Cabinet Office before the Cabinet Secretary is approached to approve out of session consideration. The Cabinet Secretary approves the timeframe for the circulation of submissions and the deadline for responses.

Ministers receive a decision page with a submission but do not meet in person to discuss the proposal. Ministers either agree to support the submission recommendations or request a meeting to discuss the issue. No other options, for example “support subject to …conditions”, are available.

# Types of Cabinet and Cabinet Committee submissions

## Policy proposals (including Matters for Endorsement)

**Policy Proposals (PPs)** include all new policy and major reform proposals seeking Cabinet or Committee approval. The recommendation/s of a policy proposal should seek a decision, rather than be a matter for noting.

In most instances, PPs are first considered by a Cabinet Committee, to help determine policy objectives and allow for consideration of options and critical issues before the policy is implemented or developed into legislation.

Upon consideration of a Matter for Endorsement (ME), the relevant Cabinet Committee may approve the PP, refer it to Cabinet for consideration, or refer the proposal to a subcommittee or taskforce for further policy development.

PPs for Cabinet consideration are usually significant policy initiatives, particularly when the proposal has whole-of-government or cross-portfolio implications.

For PPs that propose the establishment of a new non-departmental entity that does not require legislation, further information can be found in Premier’s Circular 2013/02 on the *Creation and Review of Non-departmental Entities*. Appointments to new entities should be proposed in a separate appointment submission rather than as part of the PP and can be considered at the same meeting.

PPs relating to intergovernmental agreements (IGAs) must be considered in accordance with DPC and DTF guidance on analysis, governance and approval requirements for IGAs, including how, or whether, the IGA is considered by Cabinet or Cabinet Committees.

PPs use the ‘General submission’ template and MEs use the ‘Committee submission’ template.

## Legislation proposals

Legislation proposals come to Cabinet in at least two stages: first, Cabinet Approval in Principle (AIP) for drafting of the Bill and second, approval of the Bill at Cabinet (BAC), prior to its introduction into Parliament.

If the proposed legislation represents a new policy position or a change in existing policy, Cabinet or Committee approval on the policy position should be obtained in a ME and/or a PP, prior to AIP.

## Approval in Principle (AIP)

AIP submissions must include drafting instructions, prepared in consultation with the Office of the Chief Parliamentary Counsel. The instructions must identify the key issues to be addressed in the proposed Bill and clearly set out how it is proposed to deal with all substantive issues.

If a Minister is seeking to significantly depart from the original AIP approved by Cabinet, a **Supplementary AIP** submission will be required. This ensures Cabinet can consider the implications of any changes to the Bill prior to BAC.

In situations of exceptional urgency, the Minister may write to the Premier seeking approval for variations to AIP. The Premier still has the discretion to ask the Minister to bring a Supplementary AIP submission to Cabinet where proposed variations significantly depart from AIP or carry significant risk.

Cabinet (or Premier) approval of additional drafting instructions provides the Chief Parliamentary Counsel with the authority to prepare the Bill based on the AIP and Supplementary AIP. Where Supplementary AIPs add substantial elements to the original AIP, a new Bill may be recommended by the Chief Parliamentary Counsel.

If there are significant business or competition impacts associated with the proposed legislation, a Legislative Impact Assessment (LIA) should be undertaken and attached to the AIP submission. The [Victorian Guide to Regulation](https://www.dtf.vic.gov.au/funds-programs-and-policies/victorian-guide-regulation) provides details on the requirements for preparing a LIA. The Guide is available at [www.dtf.vic.gov.au](http://www.dtf.vic.gov.au/).

AIPs use the ‘General submission’ template.

## Exposure Draft

If a Minister wishes to publicly release a Bill for consultation prior to BAC, an **Exposure Draft (ED)** submission to Cabinet is required. An ED is a separate submission brought to Cabinet following AIP. Where possible, the AIP submission should seek Cabinet’s approval to bring the item as an ED.

When seeking Cabinet's approval to prepare and release an ED, departments should:

* + consider whether it is appropriate to release a draft Statement of Compatibility to accompany the ED of the Bill
  + (if a draft Statement of Compatibility is to be released) seek approval in the Cabinet submission to publish the draft Statement of Compatibility with the ED of the Bill
  + (if a draft Statement of Compatibility is not to be released) explain in the Cabinet submission why a draft Statement of Compatibility will not be released.

Cabinet must consider EDs of Bills before their release. Following the ED public consultation period, the BAC is presented to Cabinet before introduction into Parliament.

EDs use the ‘ED submission’ template.

## Bill at Cabinet (BAC)

BAC submissions seek Cabinet or authorised Cabinet Committee approval of Bills before their introduction into Parliament. BACs are presented in the BAC submission template, which includes a number of attachments:

* + a copy of the Cabinet print of the Bill (with Explanatory Memorandum) will be provided by the Chief Parliamentary Counsel
  + a Statement of Compatibility with the *Charter of Human Rights and Responsibilities Act 2006*, a Second Reading Speech and a Bill Summary (provided by the department).

BACs mustoutline variations since AIP that are more than just technical or minor in nature. Significant departures from AIP should follow the Supplementary AIP or Premier’s letter processes for approval of the variations.

Lodgement of a BAC submission is contingent on the accompanying Bill being provided to Cabinet Office in time for circulation to Ministers in line with the approved Cabinet agenda.

BACs use the ‘BAC submission’ template for Cabinet or relevant Committee.

## Joint AIPs/BACs

In exceptional circumstances a Minister may bring a joint AIP/BAC submission to Cabinet for consideration of the drafting instructions and the Cabinet print of the Bill.

Joint AIP/BAC consideration of a Bill is at the discretion and approval of the Premier and may be requested by a letter from the Minister to the Premier. Joint AIP/BAC submissions are confined to Bills which are highly sensitive, are required to respond to a public safety matter or emergency situation, or have significant urgent implications for the State. The Chief Parliamentary Counsel must be consulted regarding the feasibility of timing and the level of detail required.

To prepare a Bill for joint AIP/BAC consideration, the Chief Parliamentary Counsel requires drafting authority from the Premier, as the Chair of Cabinet.

Joint AIP/BACs use the ‘BAC submission’ template.

## House Amendments

**House Amendments** are required to make any changes to Bills once they are introduced into Parliament. Where proposed House Amendments depart substantially from what has already been approved by Cabinet (i.e. other than technical amendments), an accompanying submission is required.

This submission should address how and why the Minister is seeking to depart from the original Cabinet decision. Copies of the proposed changes to the Bill should be attached to the submission.

House Amendments use the ‘BAC submission’ template.

## Private Member’s Bills

The relevant Minister for the Bill will undertake an initial assessment of the Bill and prepare a submission for Cabinet consideration recommending the Government's response to a Private Member's Bill, which will include any amendments or alternate legislation.

The Parliamentary leadership is authorised to approve amendments or procedural questions relating to a Private Member's Bill if Cabinet cannot be convened. However, it is expected that the responsible Minister will bring a submission for Cabinet consideration even if time constraints prevent circulation for coordination comments.

Private Members’ Bills use the ‘BAC submission’ template.

## Reports

The Government can be asked to submit or respond to a range of inquiries being undertaken by various bodies, such as Royal Commissions, the Victorian or Commonwealth Parliaments or the Productivity Commission.

Responses to these bodies should be from a whole-of-government perspective and Cabinet approval is required before a response is tabled. In some instances, the Premier may determine that a response does not require Cabinet approval.

These items are classified as either:

* + Victorian Parliamentary Reports (for responses to Parliamentary Committees of the Victorian Parliament)
  + Other Victorian Government Reports (e.g. Victorian Government Report in Multicultural Affairs)
  + External Reports (e.g. submissions to Commonwealth Inquiries).

Officers should refer to the Victorian Government’s [Guidelines for Submissions and Responses to Inquiries](https://www.vic.gov.au/guidelines-written-submissions-and-responses-inquiries) for further information on drafting a Government response or submission. These guidelines can be accessed at [www.dpc.vic.gov.au](http://www.dpc.vic.gov.au/).

Submissions and responses use the ‘General submission’ template.

## Appointments

Section 5 provides further information on appointments that require Cabinet approval.

Appointments use the ‘Appointment submission’ template.

## Matters for Information (MIs)

Matters for Information do not seek a decision by Cabinet but recommend that information be noted. These submissions typically include information that all Ministers need to be aware of relating to key policy areas.

MIs use the ‘General submission’ template.

## Committee Reports

Committee Reports (minutes of Committee meetings) inform Cabinet of the outcomes of Committee deliberations and seek Cabinet endorsement of these decisions where required.

## Cabinet Committee submissions

There are two submission types for Committees: ‘Matter for Endorsement’ (ME) (as addressed at 4.1) and ‘Matter for Noting’ (MN).

A submission that is a MN must not seek a decision from the Committee.

ME and MN Committee submissions use the ‘Cabinet Committee submissions’ template and are required to undergo coordination.

## Presentations to Cabinet or Committees

Ministers must consult the Cabinet Secretary if they want to make a presentation to Cabinet or a Committee.

The presentation must be circulated with the submission as part of the Cabinet and Committee papers. No presentation is to be tabled at the meeting unless explicitly authorised by the Cabinet Secretary.

Audio visual presentations have the same status as formal Cabinet submissions and form part of the record of Cabinet and its Committees. Accordingly, presentations are to be marked and treated as CiC. The digital version of any presentation must be provided to Cabinet Office at least 24 hours before the meeting. Any recommendation contained in a presentation should be consistent with those in an accompanying formal submission.

Any supporting documentation from an audio-visual presentation must be made available to Cabinet Office. Similarly, digital copies of any items tabled in the meeting must be provided to Cabinet Office immediately after the conclusion of the Cabinet/Committee meeting. The digital copy must be provided via the VicPortal in PDF format.

The Cabinet Secretary’s approval is required for any additional content a Minister wishes to bring to Cabinet for an item that has already been distributed. Cabinet Office should be contacted in the first instance for requests of this nature.

A Matter for information or a Matter for Noting item may appear on an agenda as a Verbal Presentation (VP). The VP may be accompanied by a presentation but cannot contain any recommendations for endorsement.

# Appointments

Submissions recommending candidates for appointments to government boards are considered by Cabinet. Guidance on appointment processes and requirements is available in the *Appointment and Remuneration Guidelines* (the Guidelines), which can be accessed [via the DPC website](https://www.vic.gov.au/guidelines-appointment-remuneration).

The appointment submission template provides guidance on completing an appointment submission. Appointment submissions should:

* clearly explain why the proposed appointee is the best candidate for the position, with reference to the position description and the person’s qualifications and experience
* explain the recruitment and appointment process, including any departures from the Guidelines
* note the composition of the board, including gender and representation of diverse backgrounds, the length of respective board members’ terms and address how the proposed appointee complements the board’s composition
* note if there are any material or perceived conflict of interests, and the completion of probity checks.

## Which appointments require Cabinet approval?

Cabinet will consider:

* + - all appointments to Group A entities
    - all appointments to Group B entities
    - non-elected Chairs of Group C entities
    - all appointments to Group D1 and D2 entities
    - all full-time appointments to which the remuneration schedules do not apply
    - appointments of sitting Members of Parliament
    - irregular terms and conditions, for example, remuneration outside the bands
    - elevation of a Deputy for more than three months to a position that would usually be considered by Cabinet (Cabinet approval is not required for short-term appointments of less than three months\*); and
    - appointments considered to be sensitive or significant.

*\* subject to legislative requirements or terms of reference (i.e. if the Act requires the Deputy to be automatically elevated if the position is vacant, Cabinet approval is not required)*

If the proposed appointment is to a new entity, please refer to the Guidelines and consult Governance Branch, DPC at [publicsectorgovernance@dpc.vic.gov.au](mailto:publicsectorgovernance@dpc.vic.gov.au) about the appropriate classification of the entity (as Group A, B, C or D).

Short-term appointments for periods of up to three months may be made without the approval of Cabinet. However, Ministers may determine in some cases particular sensitivities warrant bringing a short-term appointment before Cabinet. Any subsequent reappointment (even if for less than three months) must be brought to Cabinet.

To determine whether an appointment is ‘sensitive or significant’, Ministers should consider:

* + - the importance of the position to the Government’s policies and programs
    - the remuneration attached to the position
    - irregular terms and conditions of an appointment
    - Government funding influenced or controlled by the position.

## Timing of appointment submissions

Cabinet should consider appointments at **least four weeks in advance** of the date on which the position becomes vacant or expires, or in respect of a new position, the date on which it is proposed the appointee commences duty. If a new position requires Governor in Council approval, Cabinet approval should be sought **at least one week** before Governor in Council approval is scheduled.

Departments are required to maintain a schedule of expiry dates of appointments and to regularly review it to identify forthcoming appointments within their portfolios.

Multiple appointments to the same body, or to the same class of bodies (e.g. a range of public health services), can be made in the same submission. While there may be instances where appointments can be split across weeks to manage volume, it is generally preferable that such appointments be ‘batched’ so that Cabinet does not have to consider multiple submissions in relation to the same bodies over a number of meetings.

Cabinet should not be asked to approve appointments that are scheduled to commence more than three months in the future, to ensure that appointments approved by Cabinet are based on current information.

## Composition of board membership

Government boards and committees should reflect the diversity of the Victorian community. Boards should have members with an appropriate mix of expertise, experience and a range of perspectives. [The Diversity on Victorian Government Board Guidelines](https://www.vic.gov.au/diversity-victorian-government-board-guidelines/about-guide) provides guidance to support diversity on boards, including advice tailored to specific groups that experience barriers to participation.

Improving the diversity of representation on Victoria Government Boards requires an active consideration of candidates from diverse cohorts, including:

* Women
* Aboriginal Victorians
* People with a disability
* People from culturally and linguistically diverse backgrounds
* Lesbian, gay, bisexual, transgender, gender diverse, intersex and queer people (LGBTIQ+)
* People under the age of 35
* People from rural and regional Victoria.

For boards and portfolios that have less than 50 per cent women, no less than 50 per cent of all future appointments must be women. For boards and portfolios that have at least 50 per cent women, appointments must continue to result in at least 50 per cent women on boards.

Departments must consult with the relevant lead policy office, to plan suitable recruitment processes to engage potential candidates across diverse cohorts and communities.

Submissions should describe actions taken to improve the diversity of board membership. Submissions should also describe the gender composition and the representation of people from diverse backgrounds of the proposed board (refer to ‘Appointment template’ for further detail).

## Remuneration

Ministers determine and then recommend to Cabinet the level of remuneration for appointees from within the remuneration bands specified in the Guidelines (Schedules A to D). This requirement applies regardless of whether the submission is recommending an appointment for a newly established or pre-existing vacant position, or a new appointee or a re-appointment.

If a recommendation is made to remunerate outside the bands, a strong rationale for why the higher rate is considered necessary should be outlined in the submission.

## Declarations of Private Interests, conflict of interest and probity checks

Appointments and re-appointments are contingent upon the nominees completing a Declaration of Private Interests to the satisfaction of the responsible Minister. Under no circumstances should an Appointment submission indicate that a satisfactory Declaration of Private Interests has been completed until the Minister has received the Declaration and judged it to be satisfactory.

Declarations of Private Interests should be submitted by the nominee to the responsible department and retained in an appropriately secure facility and in accordance with privacy laws by that department.

Satisfactory completion of a Declaration of Private Interests should be obtained before Cabinet considers the appointment. The Declaration should not be attached to the submission.

Any material or potential conflict should be addressed in the submission, as well as information relating to required probity checks for appointments.

At a minimum, departments must obtain the following probity checks for all appointments, subject to any applicable waivers or exceptions described below.

|  |  |
| --- | --- |
| National Criminal Record Check | National Criminal Record Checks can take up to four weeks. It is important that early consideration be given to the completion of probity checks to avoid delays to the appointment process. If a candidate has lived overseas for more than 12 months in the past 10 years, or has resided in Australia for less than 12 months, an International Criminal Record Check is also recommended. |
| Australian Securities and Investment Commission (ASIC) Register of Persons Banned and Disqualified check \* | Register of persons banned or disqualified under the provisions of the *Corporations Act 2001* (Cth). Searches can be undertaken by accessing the ASIC website [www.asic.gov.au](http://www.asic.gov.au). |
| Australian Financial Security Authority (AFSA) National Personal Insolvency Index (NPII) check \* | The public record of personal insolvency proceedings in Australia under *the Bankruptcy Act 1966* (Cth). Information on arranging a search of the NPII can be found on the AFSA website, [www.afsa.gov.au](http://www.afsa.gov.au). |

*\* ASIC and AFSA checks can be performed online with results available immediately.*

## Curriculum Vitae (CV)

A CV for each appointee must be provided at the time the registration form is submitted and then as an attachment to the submission to Cabinet. It must not be more than six months old. The CV should be typed and contain all relevant and recent experience, and details of current appointments, employment and offices held. A summary or biography of the appointee is not sufficient.

## Instruments of Appointment

A copy of the draft instrument of appointment (e.g. Order in Council, Ministerial letter) must be attached to the submission.

# Writing Cabinet submissions

## General principles of a quality Cabinet submission

The development of submissions for consideration by Cabinet and Cabinet Committees consists of a number of stages:

* + planning and engagement
  + analysis and impact assessments
  + coordination across government
  + where appropriate, consideration by a Cabinet Committee prior to Cabinet.

Well written submissions facilitate informed and effective decision making by Cabinet. Submissions should clearly identify the matters on which agreement is sought, why the decision is significant and any other key matters.

Submissions should be concise (a maximum of ten pages). Committee and Cabinet submissions should focus on what Ministers need to consider in order to make an informed decision. Committee submissions should only address issues within the Committee’s terms of reference.

## Planning for quality outcomes

To enable efficient and effective drafting, the authoring department should:

* + brief the Minister to identify and analyse key issues, options and recommendations for consideration by Cabinet or a Committee
  + consider cross-government implications of the proposal and the potential for collaboration with other departments to achieve whole-of-government solutions, and
  + obtain specific directions from the Minister on consultation requirements, timetable and the proposal/s the Minister wishes to recommend to Cabinet.

Consideration should be given to the urgency of the response and whether the issues require a legislative or administrative response, or both, as well as how the Commonwealth, other states and, if appropriate, other countries have dealt with similar issues.

## Analysis and impact assessments

While the form and level of analysis will depend on the issue, a submission should include an assessment of alternative means to achieve the desired objective, weighing up benefits and disbenefits of each option. Risks related to the recommended approach should be outlined.

Impact assessments are built into the submission template and encourage departments to take a holistic view of the issue, for example, how impacts are distributed across the State, or the social impacts of implementation.

### Consultation

Consultation can take many forms including:

* + proactive engagement with stakeholders and the community in formulating options and priorities
  + public discussion papers released for comment; written requests for comments directed to specific individuals or groups
  + Exposure Drafts
  + meeting with other departments and seeking feedback via the formal coordination comment process.

### Consultation within Government (prior to formal coordination comments)

Consultation allows affected Ministers, departments and/or agencies to comment and, where possible, to design cross-portfolio solutions and resolve issues ahead of Cabinet consideration.

Consultation should occur early in the development of the proposal, with the subsequent formal coordination comments stage providing an opportunity to check that all views have been considered. Submissions should not be delayed because of failure to reach full agreement on all the recommendations; however, effort should be made to resolve outstanding issues prior to consideration by Cabinet.

Early consultation with DPC and DTF (particularly if economic/financial implications apply) is particularly important to allow sufficient time to address significant budgetary or other concerns that the Premier or Treasurer may have.

The lead Minister of each department should be engaged on any proposals to be brought to Cabinet or a Committee, to help identify cross-portfolio impacts and processes for managing any shared accountabilities for implementation.

The Department of Justice and Community Safety (DJCS) must be consulted when any proposed infringement offences are to be considered by Cabinet. The submission must indicate that DJCS has been consulted and the offence complies with the Attorney-General’s Guidelines to the *Infringements Act 2006*. DJCS should also be consulted in relation to compliance with the *Charter of Human Rights and Responsibilities Act 2006.*

### Consultation with Chief Parliamentary Counsel

For legislation, departments must discuss the proposed drafting instructions and submission with the Chief Parliamentary Counsel before the submission is lodged for coordination comments.

The Chief Parliamentary Counsel will advise on the readiness of drafting instructions to enable preparation of the first draft of the proposed Bill. For more complex proposals, early consultation with the Chief Parliamentary Counsel supports timely and quality preparation, including how best to formulate particular aspects or consider how a policy is best implemented. DPC will also verify the necessary timing of legislation development with OCPC and will use OCPC’s advice on drafting timelines to inform BAC date allocation.

### Consultation outside Government

Departments should seek direction from their Minister/s concerning external consultation. If consultation is to occur following consideration by Cabinet at the PP or AIP stage, the submission’s recommendation should seek approval of this consultation.

## Coordination Comments

Formal coordination comments must be sought from all departments for MEs (for prescribed Committees), PPs, AIPs, and all reports.

In exceptional circumstances an exemption from coordination can be sought from the Cabinet Secretary.

## Composition of a submission

There are different templates for legislation, policy, appointment and Cabinet Committee submissions. Submissions must be presented using the correct template. Submission templates are available from CLLOs and Cabinet Office.

All relevant sections of the submission must be completed; new sections must notbe added. Where a section is not applicable to the submission, this should be stated under the heading. Adherence to the templates is mandatory and the main body of the submission (i.e. up to the funding page) must not exceed ten pages.

Any reference to an attachment must clearly identify the attachment (e.g. bold or underline) and, where appropriate, the attachment’s page number and the paragraph or table number.

### Recommendations

The submission’s recommendations form the basis of the Cabinet record. It is critical that they are written in order to stand alone, without relying on the body of the submission. For example, instead of ‘that Cabinet should approve the final report at Attachment 1’, the recommendation should read ‘that Cabinet approve the Victoria’s Future report (Attachment 1 of the submission)’.

Ensure that recommendation/s are clear and succinct. They should cover all matters on which decisions are being sought. Reference any attachments that require Cabinet approval or noting in the recommendations.

Recommendations should focus on the actual decisions required by Cabinet or a Committee, with ‘noting’ recommendations used rarely.

### Objectives

The initial sections of the submission outline the objectives and a summary of the main issues for Cabinet consideration.

The objectives of the proposal should be clear and succinct and demonstrate the merits of the proposal.

### Key issues

Provide detail on the reason for the development of the proposal, why it warrants Cabinet consideration and why the recommendations should be supported.

Previous consideration and/or decisions made by Cabinet or Committees should be referred to, including decision dates. It is important to outline where decisions support or depart from previous Cabinet decisions. Include any reference to relevant Government commitments or policy frameworks, along with implementation plans and how impacts will be monitored.

### Risks

Provide an assessment of the consequences for Government if the submission is not supported in whole or in part, or if the proposal is delayed or deferred. Specify any significant challenges in the policy or its implementation, and briefly outline how these challenges will be managed.

### Support/Criticism

Outline the level of support for the proposal; identify concerns and criticism from stakeholders, and outline how these will be addressed.

Include how the outcome will be communicated, and note whether a media release or communications strategy is planned.

### Funding

The Cabinet template includes a Financial Implication Table for completion. Departments should include relevant financial information and delete any sections not required. Consultation should occur with DTF and DPC.

### Impact Assessments

Impact Assessments identify all anticipated consequences of the recommendations Cabinet is being asked to consider.

Assessment of the various short and long-term impacts of a proposal is a crucial part of policy development. Include a detailed analysis of issues and options to provide a better understanding of how to meet the policy objectives. Ensure you also identify how these impacts will be managed.

Impact Assessments follow the main body of the submission (after the funding page). They should be considered for all submission types other than those dealing with appointments or administrative decisions.

# Cabinet document management and security

The *Public Records Act 1973* sets out requirements for the preservation, management, use and destruction of public records of the state. The Public Record Office of Victoria (PROV) provides detailed guidance regarding Departmental obligations under the Act in the form of Retention and Disposal Authorities (RDAs).

‘Cabinet information’ includes both written (including digital) and verbal information; reference to ‘Cabinet documents’ refers to written (including digital) information only.

Ministers and departmental Secretaries are responsible for having appropriate procedures in place for managing Cabinet information in their possession.

## Access to Cabinet information

Only those with a ‘need to know’ may have access to Cabinet information. The unauthorised and/or premature disclosure of matters contained in Cabinet information can be damaging to the government and to the public interest.

Any request for the disclosure of a document or other material that refers to a discussion conducted at a Cabinet meeting, records a decision made at a Cabinet meeting, or was considered at a Cabinet meeting is to be discussed with Cabinet Office before the relevant document or material is disclosed.

## Cabinet-in-Confidence (CiC) classification

Cabinet records are created, controlled and circulated under the Cabinet Office's direction and supervision to authorised recipients only (mainly Ministers and their immediate divisions).

A document is classified as CIC if it discloses a deliberation or a decision by Cabinet or a Cabinet Committee, or has been prepared for consideration by Cabinet or a Cabinet Committee.  
  
Cabinet records include:

* Cabinet agendas
* Cabinet minutes
* Cabinet committee agendas and minutes
* Cabinet committee reports
* memoranda to the Cabinet
* draft bills
* records of Cabinet decisions, and advice, legal and other, relating to Cabinet matters
* Cabinet Notebooks
* Cabinet Office files (containing original submissions, briefing papers and decisions).

Departmental Cabinet-in-Confidence (CiC) records are created and maintained by departments or agencies within the Minister's portfolio and forwarded to the Minister. Departmental CiC records include submissions, memos and correspondence, which have been passed to the Minister from an agency.

Some original departmental CiC records are classified as having permanent value and are required to be retained as State Archives at the Public Record Office (PROV).

Documents classified as CiC should be marked with ‘Cabinet-in-Confidence’ whether hard copy or digital. Documents already in the public domain may be attached to Cabinet submissions to provide detailed background on a particular issue. While these documents are already in the public domain, their inclusion for Cabinet consideration should remain confidential.

## Storage

#### To support the security and quality control of items, digital administration of Cabinet and Committees should be maintained as much as possible, rather than the use of printed materials. This approach aligns with the[Victorian Government Digital Strategy 2021-2026](https://www.vic.gov.au/a-future-ready-victoria)in particular with regard to better, fairer and more accessible services, and a digital ready public sector.

Security measures governing the filing and storage of digital and hard copy Cabinet documents need to be tailored to each department’s information management systems and business environment to ensure that there is no unauthorised disclosure of information.

Departments should ensure separate and secure storage of annual and portfolio-based Cabinet files, especially where the subject matter also relates to material on corporate departmental files. Cabinet documents must not be held on a corporate departmental file; however corporate files may be cross-referenced to the appropriate Cabinet file.

Printing of Cabinet documents should be minimal and tightly managed. Hard copy material must be securely stored when not in use.

## Distribution and tracking of Cabinet documents

### Transmission and receipt of Cabinet documents

Cabinet and Committee submissions, Cabinet agendas and records and Cabinet Committee minutes are distributed electronically via the VicPortal.

A user’s name or unique tracking name and date of access will be imposed as a watermark on any CiC document accessed within the VicPortal. Users are responsible for their secure use of the system. Departments and Ministers’ offices must ensure that distribution lists and access permissions are controlled and are kept up to date.

Use of fax or unsecured hard copy or mail systems (e.g. Australia Post or a department’s internal mail run) is not allowed.

Secure email using departmental systems is permitted for necessary collaboration on CiC matters. Staff should follow departmental protocols regarding the use of email for the distribution of CiC material, including necessary practice regarding classification, filing and destruction if applicable. Unsecured (personal) ICT services should not be used.

Cabinet records are created, controlled and circulated under the direction and supervision of the Cabinet Office, Department of Premier and Cabinet, to authorised recipients with a ‘need to know’. Individuals involved with Cabinet and Committee processes must be aware of their responsibilities under the *Public Records Act 1973*.

Please refer to the Cabinet Office, DPC or the Cabinet/Executive Services group in the relevant department for detailed information on the management of Cabinet documents.

### Unauthorised access

In the event that Cabinet information is given to or comes into the possession of an unauthorised person, all efforts are to be immediately undertaken to:

* + (in the case of written information) retrieve the information
  + identify persons that had access
  + report the incident to the Executive Director, Cabinet Office.

If security breaches involving Cabinet documents occur, the Secretary, DPC or his or her nominee may seek information from a Minister’s office or department about the movement and audit trail of Cabinet documents.

## General return of Cabinet documents

### Use complete

All CIC material for meetings is distributed electronically by the Cabinet Office. Printing of Cabinet documents should be minimal and tightly managed. Hard copy material must be securely stored when not in use.

Ministers should securely destroy CIC material or may return hard copy material they no longer require to their department for destruction following a Cabinet or Committee meeting.

### Machinery of Government and/or Ministerial changes

When a Minister ceases to hold a position at Cabinet, all Cabinet documents held by the Minister are to be returned to the department’s CLLO. Cabinet documents in the possession of officers or Ministers affected by machinery of government changes must be returned to their original CLLO for redistribution or destruction.

### Upon request

At any time the Secretary, DPC or the Executive Director, Cabinet Office can request the return of Cabinet documents held by other departments, Ministers’ offices or agencies. Relevant staff need to be able to quickly identify and provide the documents.

### Caretaker period

Section 38A of the *Constitution Act 1975* states that the Victorian state election must be held on the last Saturday in November nearest to the fourth anniversary of the previous election day.

Caretaker commences at the time the Legislative Assembly expires or is dissolved. Section 38(1) of the *Constitution Act* sets out that the Assembly shall expire on the Tuesday which is 25 days before the last Saturday in November, which is closest to being four years from the last election. Caretaker continues until the election result is clear.

All hard copy and digital Cabinet documents created during the term of government must be identified and returned to the custody of Cabinet Office during the caretaker period for storage, until the result of the election is known.

Before commencement of a caretaker period Cabinet Office will issue detailed guidelines on the transfer of custody of all Cabinet documents to DPC.

### Transfer of documents to PROV

Cabinet Office will undertake the transfer and archiving of permanent Cabinet documents to PROV for permanent retention in accordance with the *Public Records Act 1973.*

# Requests for access to Cabinet documents

Any request for the disclosure of a document or other material that refers to a discussion conducted at a Cabinet meeting, records a decision made at a Cabinet meeting, or was considered at a Cabinet meeting is to be discussed with Cabinet Office before the relevant document or material is disclosed.

## Documents of previous governments

Departments may provide advice to Ministers in relation to the publicly announced policies and programs of former governments.

By convention, Cabinet documents are confidential to the government which created them. Queries relating to access to Cabinet documents of a former government should be directed to the Executive Director, Cabinet Office.

## Audit Act 1994

Sections 11 and 12 of the *Audit Act 1994* give the Auditor-General the power to access documents held in departments that are relevant to matters under consideration by the Victorian Auditor-General's Office (VAGO), including Cabinet documents. For VAGO requests for current government CiC material, where the content has been developed by a particular department, release can be managed by that department without further consultation with the Cabinet Office.

All requests for previous government Cabinet material must be directed to Cabinet Office, DPC, regardless of whether it is held by DPC or the Public Records Office of Victoria.

All provision of CiC material to VAGO must adhere to secure transmission and stoage protocols, and departments should keep a register of CiC documents provide in respise to VAGO requests.

Departments should consult the Cabinet Office, DPC prior to providing any Cabinet documents to VAGO.

## Freedom of Information

All documents subject to the *Freedom of Information Act 1982* (the FOI Act) need to be considered on a case-by-case basis when processing a request made under the FOI Act. However, the FOI Act contains a specific provision relating to Cabinet documents.

Section 28 of the FOI Act provides that the following document types are exempt from release under the FOI Act:

* + 1. the official record of any deliberation or decision of Cabinet; or
    2. a document that has been prepared by a Minister or on his or her behalf or by an agency for the purpose of submission for consideration by Cabinet; or
    3. a document prepared for the purpose of briefing a Minister in relation to issues to be considered by Cabinet; or
    4. a document that is a copy or draft of, or contains extracts from, a document referred to in items i to iii above; or
    5. a document the disclosure of which would involve the disclosure of any deliberation or decision of Cabinet, other than a document by which a decision of Cabinet was officially published.

The FOI Act defines the term ‘Cabinet’ as including a committee or sub-committee of Cabinet.

Other exemptions under the FOI Act (apart from section 28) may also apply to certain documents or parts of documents relating to Cabinet.

If a FOI decision relying on the section 28 exemption is to be reviewed by the Victorian Civil and Administrative Tribunal (VCAT), the Executive Director, Cabinet Office and General Counsel, DPC should be notified, and consultation may be required if DPC officers are required to give evidence.

The protection of the section 28 exemption cannot be obtained by merely asserting that a document is a document of Cabinet or Cabinet Committee. For the confidentiality and integrity of documents relating to Cabinet to be protected, it must be possible to prove before VCAT that the document sought has the characteristics of an exempt document detailed in section 28. Cabinet Office is uniquely placed to assist in providing the required evidence.

## Discovery of Cabinet documents in litigation

Cabinet information may be sought in legal proceedings. Further advice can be sought from General Counsel, DPC and the Executive Director, Cabinet Office and, if required, the Victorian Government Solicitor’s Office.