Appointment and remuneration guidelines

**Effective July 2024**

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# Acknowledgement of Country

**The Victorian Government acknowledges Aboriginal and Torres Strait Islander people as the Traditional Custodians of Country.**

We respectfully acknowledge all First Peoples of Victoria and celebrate their enduring connection to land, skies and waters. We thank First People for their care of Country and contributions to Victorian communities. We honour and pay our respects to First Peoples’ Elders past and present.

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# The Guidelines support good governance of Victorian government entities

* 1. These Guidelines are issued by the Premier to support good governance in Victoria by outlining the standard processes and principles to appoint and remunerate appointees to Victorian government non-departmental entities.
	2. Non-departmental entities play an important role in the Victorian government. These entities often manage significant services and funds on behalf of the community or provide advice to assist with significant government policy decision making. Further detail on the types of entities that are within scope of the Guidelines is at [section 2.](#_The_Guidelines_apply)
	3. The standard processes in these Guidelines ensure the integrity of appointments, and a fair and consistent approach to appointments to non-departmental entities.
	4. These Guidelines are issued by the Premier and administered by the Public Sector Governance team, Governance Branch, Department of Premier and Cabinet (DPC), publicsectorgovernance@dpc.vic.gov.au.

## Key contacts for help and advice

* 1. In the first instance departmental ministerial services or governance teams can assist with any queries relating to these Guidelines. Departmental contact details are outlined below.

|  |  |
| --- | --- |
| Department  | Contact details  |
| Education  | cabinet@education.vic.gov.au |
| Energy, Environment and Climate Action | governance@delwp.vic.gov.au |
| Families, Fairness and Housing | appointments@dffh.vic.gov.au |
| Government Services | statutoryappointments@dgs.vic.gov.au  |
| Health | appointments@health.vic.gov.au |
| Jobs, Skills, Industry and Regions | boardappointments@ecodev.vic.gov.au |
| Justice and Community Safety | statutoryappointments@justice.vic.gov.au |
| Premier and Cabinet  | publicsectorgovernance@dpc.vic.gov.au  |
| Transport and Planning | apptsandexco@transport.vic.gov.au |
| Treasury and Finance | CabinetAnd.ParliamentaryServices@dtf.vic.gov.au |

* 1. Other contacts that can assist are outlined below

|  |  |
| --- | --- |
| Area  | Contact details  |
| Governance Branch, DPC | publicsectorgovernance@dpc.vic.gov.au |
| Cabinet Office, DPC | ph: 9922 7213 |
| Clerk of the Executive Council, DPC | executivecouncil@dpc.vic.gov.au |
| Diversity on boards (Women, Multicultural Equality, Youth and Disability), DFFH | diversityonboards@dffh.vic.gov.au |
| Diversity on boards (Aboriginal), First Peoples - State Relations, DPC | Secretariat.AA@dpc.vic.gov.au |
| Diversity on boards (Regional), Regional Development Victoria  | rdv@rdv.vic.gov.au |
| Victorian Public Sector Commission | info@vpsc.vic.gov.au |

## If a new non-departmental entity is being created, the Premier’s Circular on the Creation and Review of Entities applies

* 1. The Premier’s Circular No. 2013/2, *Creation and Review of Non-Departmental Entities* applies to the creation of new non-departmental entities. Under this Premier’s Circular, a series of steps, including Cabinet approval, is required for the creation of new non-departmental entities. The Circular also provides guidance on the creation of new entities.
	2. A copy of the Premier’s Circular No. 2013/2, *Creation and Review of Non-Departmental Entities* and associated process document is available on request from Governance Branch at publicsectorgovernance@dpc.vic.gov.au

### Key considerations in the appointment process

#### When you become aware of an upcoming vacancy…

Do the Appointment and Remuneration Guidelines apply to the appointment?

**Pages 8-10**

How should a merit-based recruitment process be run?

**Pages 11-16**

For reappointments, how should performance be assessed to determine suitability for reappointment?

**Pages 14-15**

Does the preferred candidate reside in Victoria?

**Page 20**

#### Approximately six months

#### When preparing to appoint the preferred candidate…

#### After the appointment is approved…

What reporting obligations are there for appointments?

**Page 37**

What induction does the appointee need?

**Pages 36-37**

Does the preferred candidate meet the skills mix, legislative/ terms of reference criteria and diversity considerations?

**Pages 11-12**

Can the preferred candidate meet the commitments required of this board (e.g. 75% meeting attendance)?

**Page 17**

Is the preferred candidate serving on other government boards? If so, do they have sufficient time to meet the demands of all appointments?

**Page 17**

Is the preferred candidate a public sector employee, registered lobbyist or Member of Parliament?

**Pages 18-20**

Does the appointment require approval from Cabinet and/or the Governor in Council?

**Pages 34-35**

Is the proposed remuneration in the appropriate band for the type of entity?

**Pages 26-33**

Have probity checks and a Declaration of Private Interests been completed?

**Pages 21-25**

#### When considering candidates…

# The Guidelines apply to all appointments to non-departmental entities

* 1. In these Guidelines, non-departmental entities are defined as entities:
* That are established by or under legislation, an order of the Governor-in-Council, or a Minister;
* where the right to appoint at least one half of the governing body of the entity is vested in the State; and
* that exercise a public function or are wholly owned by the State. Judicial functions are excluded.
	1. In these Guidelines, non-departmental entities are divided into ‘boards’ and ‘single officer roles’:

‘**Boards**’: The Guidelines refer to a ‘board’ as a generic term. The term ‘board’ may include:

* **Boards of management** which are responsible for strategy and direction. Boards of management include the boards Statutory Authorities, State Owned Enterprises and Government Business Enterprise and trusts
* **Advisory boards and committees** that provide policy, industry or technical advice, including ad hoc expert panels
* **Registration boards** such as qualifications, regulatory or licencing bodies
* **Quasi-judicial bodies or tribunals** where there is no other framework governing remuneration and appointment
* **Inquiries** under the *Inquiries Act 2014* (Vic).

**‘Single officer roles**’: Include, but are not limited to, single statutory office holders and Commissioners. A ‘single officer role’ can be established under legislation or at the Government’s discretion, through appointment by the Governor in Council, a Ministerial instrument of appointment, or the prerogative power of the Crown to create public offices.

Factors that indicate that a role is a ‘single officer role’ for the purposes of the Guidelines are:

* The appointment is the primary employment of the appointee
* The appointee is expected to work a set number of days per week
* The appointee is restricted from engaging in additional employment, or requires approval to do so

All single officer appointments require Cabinet approval.

Despite the term, single officer roles may include roles where there are multiple identical or similar single office roles that are appointed to the same non-departmental entity. For example, multiple Commissioners appointed to the same Royal Commission.

Queries relating to whether an appointment should be treated as a single officer appointment for the purpose of these Guidelines should be directed to Governance Branch DPC.

* 1. While the process steps of these Guidelines apply to single officer appointments, the remuneration schedules (set out in Schedules A, B, C and D) **do not apply** to these appointments (see [section 7.1 to 7.3](#_Remuneration_of_single)).
	2. Appointments subject to these Guidelines may also be subject to legislative requirements. If the Guidelines are inconsistent with legislative requirements or specifications, legislative requirements or specifications take precedent over these Guidelines.

### The Guidelines do not apply to the following entities

* 1. The Guidelines **do not** apply to:
* the employment of public service or public sector employees; including executives
* departmental entities, for example interdepartmental committees that consist of departmental employees rather than external appointees
* external contractors or consultants engaged to advise departments or other public entities
* school councils
* entities whose remuneration is set by or tied to the *Judicial Entitlements Act 2015* (Vic), however, the Guidelines represent best practice for these appointments.

### The Guidelines partially apply to the following entities

* 1. The Guidelines **partially apply** to a Committee of Management incorporated under the *Crown Land (Reserves) Act 1978* where committee members are unremunerated. If such a committee has an annual revenue or cash balance that is:
* **less than $250 000 per year**, then appointments to that committee are exempt from the Guidelines, except for the requirement to complete, before appointment:
	+ a Declaration of Private Interests; and
	+ a National Personal Insolvency Index check an Australian Securities and Investment Commission banned and disqualified persons check.
* between **$250,000 to $1 million per year**, then appointments to that committee are exempt from the Guidelines, except for the requirement to complete, before appointment:
	+ a Declaration of Private Interests; and
	+ a criminal records check, a National Personal Insolvency Index check, an Australian Securities and Investment Commission banned and disqualified persons check.
	1. If a committee of management is exempt from the Guidelines, then Departmental appointment guidelines and policies may still apply to the appointment.
	2. It is recommended that appointments that fall outside the scope of these Guidelines (see [section 2.5](#_The_Guidelines_do)) still comply with the Guidelines. This should include the use of merit-based selection processes, completion of probity checks, collection of Declaration of Private Interests forms, and consideration of diversity among appointees.

# A robust recruitment and selection process enables the most suitable appointment to be made from a diverse range of candidates

* 1. This section contains a brief overview of the recruitment and selection process. This section should be read in conjunction with:
* [Diversity on Victorian Government Board Guidelines](https://www.vic.gov.au/node/24060), which apply to all appointments to which these Guidelines apply; and
* [Recruitment and Appointment to the Board – A Governance Officers’ Toolkit](https://vpsc.vic.gov.au/governance/recruitment-and-appointment-to-the-board-a-governance-officers-toolkit/%22%20%5Co%20%22Recruitment%20and%20Appointment%20to%20the%20Board%3A%20A%20Governance%20Officers%E2%80%99%20Toolkit)

## Best practice is to identify a vacancy and begin the recruitment process at least six months before the expiry of the appointment

* 1. All departments are expected to keep rolling schedules of the upcoming appointments within their respective portfolios. Appointments should not be brought to Cabinet more than three months ahead of the appointment commencing, to ensure that, as far as practicable, the appointment is based on current information (see 5.2 of the [Cabinet Handbook](https://www.vic.gov.au/cabinet-handbook)).

### Consider the board composition, skills and diversity matrix

* 1. When filling a board vacancy, consideration must be given to the mix of skills and expertise, lived experience, personal qualities, diversity and gender balance of existing board members. All Chairs must maintain a skills and diversity matrix of the board to inform vacancies and assist succession planning. Departments must use the skills and diversity matrix and consult with the Board Chair on the personal qualities, character, reputation, specialist expertise or lived experience required to successfully acquit the responsibilities of the board. A template skills matrix can be found [here](https://www.vic.gov.au/diversity-victorian-government-board-guidelines/template-board-skills-and-diversity-matrix).

### A position description should be developed for the specific role

* 1. The position description should capture the personal qualities, knowledge, skills and experience that are required for effective performance of the relevant role. The position description should include:
* duties and responsibilities of the position
* skills or experience required for the position
* mandatory and desirable selection criteria
* the terms and conditions of appointment.
	1. When developing the position description for a board role, input from the board’s Chair should be sought to understand the board’s operating environment and current and emerging priorities.
	2. The [Diversity on Victorian Government Board Guidelines](https://www.vic.gov.au/diversity-victorian-government-board-guidelines/about-guide) provide advice on drafting a position description that is inclusive of diverse candidates.

**Appointments to Victorian Government boards should reflect the rich diversity of the Victorian Community**

* 1. The [Diversity on Victorian Government Board Guidelines](https://www.vic.gov.au/guideline-maintaining-data-about-victorian-entities-and-appointments) provide general advice to support diversity on boards, including advice tailored to specific groups that experience barriers to participation. Under the Diversity on Victorian Government Board Guidelines, it is **mandatory** to consult with the relevant policy area in relation to each of the following groups:
* Women, cultural and linguistically diverse people, young people, LGBTIQ+ people, people with disability: diversityonboards@dffh.vic.gov.au
* Aboriginal people: Secretariat.AA@dpc.vic.gov.au
* People living in rural and regional communities: Your department’s relevant regional group. For broader consultation or additional guidance, consult rdv@rdv.vic.gov.au
	1. Departments are encouraged to engage with relevant policy areas above during the early planning stage of the recruitment process so that they can add as much value as possible. An outline of the information that should be provided as part of the consultation is provided under the [‘Consulting on diversity’](https://www.vic.gov.au/node/24060/recruitment-process-checklist#3-consulting-on-diversity) section of the Diversity on Victorian Government Board Guidelines.
	2. While the inclusion of young people on boards increases diversity, generally people under the age of 18 should not be appointed to boards. For entities established under the *Corporations Act 2001* (Cth), board directors must be at least 18 years of age.

**The Women on Boards commitment**

* 1. The [Victorian Government's Women on Boards commitment](https://www.vic.gov.au/node/24095) commenced in March 2015. In 2021, the commitment was refreshed and now requires that:
* 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.
	1. The Women on Boards commitment also applies to Chair positions, so that portfolios are required to appoint at least 50 per cent women to new Chair appointments, or maintain at least 50 per cent women as Chairs, on all boards in scope.
	2. The refreshed Women on Boards commitment applies to Victorian courts and boards, except for the following:
* statutory offices or officers
* small Crown land committees of management
* small cemetery trusts
* school councils.
	1. Ex-officio appointments are to be included in the calculation of the gender balance of boards and portfolios.
	2. The Office for Women, DFFH, must be consulted on all new appointments early in the appointment process, before recruitment via diversityonboards@dffh.vic.gov.au. It is recommended that this consultation occur at the same time as consultation in relation to other diverse groups is undertaken (see section 3.7).
	3. All appointment submissions must provide details on the outcomes of consultation with the Office for Women, including how the appointment will affect the gender composition of the board and the portfolio.

### Vacancies should be publicly advertised to attract a strong and diverse range of candidates

* 1. Selection processes should be open, merit-based, fair, and endeavour to attract a diversity of applicants (further details below). At a minimum, each application should be scrutinised by a selection panel, and referees should be contacted for recommended candidates.
	2. In some circumstances a mix of targeted and open approaches to attract or identify suitable candidates may be necessary. More targeted approaches include network referrals, use of established contacts with business and community groups, executive searches and existing talent pools.
	3. In some cases, an entity’s terms of reference or constituting legislation will require appointees to be nominated from a particular group or organisation. These requirements must be followed.
	4. In rare circumstances open and competitive recruitment may not be possible or appropriate, for example where there is a very small pool of candidates that meet the specific statutory requirements. If an open and competitive process has not been undertaken, the reasons for this must be explained by the responsible minister in the relevant Cabinet submission or in writing to the Premier, before the appointment is finalised.

#### Advertising

* 1. It is required that appointment vacancies are advertised on Join a Public Board the online platform for public sector appointments maintained by the [Victorian Public Sector Commission](https://vpsc.vic.gov.au/contact-us/). The site:
* allows potential candidates to apply for appointments and register their interest in future positions
* provides an end-to-end recruitment system for departments, allowing departments to advertise appointment positions, assess applications and contact applicants
* is linked with the Government Appointments and Public Entity Database, enabling departmental compliance with the [*Administrative Guideline no. 2018/01 Ensuring Good Governance and Transparency Through Integrity of Data on Victorian Government Appointments and Public Entities*](https://www.vic.gov.au/guideline-maintaining-data-about-victorian-entities-and-appointments) (see section 10.6).
	1. The [Diversity on Victorian Government Board Guidelines](https://www.vic.gov.au/diversity-victorian-government-board-guidelines/about-guide) provide tailored advice on advertising to attract diverse candidates.
	2. Other recruitment advertising by departments and non-departmental entities must be contracted through the Master Agency Media Service (MAMS). The MAMS contracts are a whole of Victorian government purchasing arrangement for media agency services. For more information see the [Victorian Government communication requirements.](https://www.vic.gov.au/advertising-government-communications)
	3. Check relevant establishing documents to ensure mandatory requirements for the non-departmental entity are met.
	4. In some cases, specific skills, expertise or qualification criteria will be mandated by the entity’s terms of reference or constituting legislation. Departments should ensure compliance with these requirements (e.g. ensuring that the mandatory skill set of an outgoing board member is met by the proposed new appointee or another existing member).

### For reappointments, a performance review is a minimum requirement

* 1. In general, candidates being considered for reappointment should undergo the same open and competitive selection process as candidates who have not served on the board or in the single officer role. Where a reappointment is being considered, regard should be given to the skills mix and requirements of the appointment, and the desirability for regular appointee turnover to bring new perspectives and experience to the entity.
	2. If a decision has been made to reappoint a member without an open and competitive selection process, a performance review of the member **must** be undertaken before recommending their reappointment. The relevant Cabinet submission or ministerial brief should include details of the performance review, including feedback from key stakeholders on the member’s performance (where applicable). A recommendation for reappointment does not, of itself, constitute a performance review.
	3. Ministers and departments may choose the approach to assessing performance of appointees that is most suitable in the circumstances.[[1]](#footnote-2) However, in conducting a performance review, ministers and departments may wish to consider the following:

**For board members:**

* how the member has contributed to the strategic direction and operation of the entity,
* how the member has acquitted responsibilities against the Code of Conduct for Directors of Public Entities
* feedback from the Chair on the member’s participation and performance.

**For board Chairs:**

* how the Chair has provided leadership to the board and contributed to the strategic direction and operation of the entity
* whether they have fostered a respectful culture and brought together and valued multiple perspectives
* whether they have effectively supported the entity’s compliance with relevant legislation and other obligations
* any significant contributions made by the Chair to the entity, and
* how the Chair has managed key relationships (e.g. with the minister and/or the portfolio department).

**For single officer roles:**

* how the member has discharged the requirements of the role, and
* feedback from stakeholders in the appointee’s performance (e.g. relevant departmental secretary).
	1. Performance reviews should be documented in writing. More detailed guidance on board performance assessment is provided in Join a Public Board’s Guide, [Assessing Public Board Performance](https://www.boards.vic.gov.au/assessing-public-board-performance).

## Briefing the Minister, Treasurer and Premier

* 1. Ministers are ultimately accountable for appointments to entities within their portfolio. Ministers should therefore approve the proposed selection process and should be kept informed of progress towards selection and appointment of candidates.
	2. Departments should notify the portfolio minister of upcoming vacancies and the proposed recruitment and selection process to fill vacancies. Ideally this should take place at least six months before the relevant vacancies need to be filled ([see section 3.2](#_Advertising)).
	3. The Premier’s Private Office must be consulted for all appointments that require Cabinet approval, as well as any appointments considered important or sensitive. The Cabinet appointment registration form should indicate that this initial consultation has occurred. This does not supplant departmental briefing processes.
	4. Under the *State-Owned Enterprises Act 1992* (Vic) the Treasurer must be consulted for all appointments to all State Business Corporations. The Treasurer’s Office must also be consulted on any appointments to other State-Owned Enterprises. Appointments with significant financial implications require consultation with the Treasurer’s Office. It is important that the Treasurer’s Office is consulted early in the appointment process.

# There are limitations on who can be appointed to public boards

* 1. These limitations ensure a diverse representation from the Victorian community and help to avoid actual, potential and perceived conflicts.
	2. Boards should be refreshed regularly to bring new experiences and perspectives.

## An individual should not be reappointed to a board on which they have already served 10 years

* 1. Boards should be refreshed regularly to bring new experiences and perspectives.
	2. Ministers seeking to re-appoint someone who has already served on the board for longer than 10 years must explain in the Cabinet submission why other suitable candidates are not available. For example, if the role has been advertised and no other candidate has been identified as being suitable to fill the role.

## An individual should hold no more than three positions on public boards at any one time

* 1. This creates opportunities for a larger number of individuals to be represented on Government boards, for boards to more accurately reflect the composition of the community and allows appointees to have sufficient time to devote to their board duties.
	2. Ministers seeking to appoint someone who is already a member of three government boards should explain why other suitable candidates are not available. When seeking to appoint someone on multiple government boards, ministers should have regard to:
* potential conflicts of interest
* potential lack of variety in decision making from having the same people on multiple boards
* the level of responsibilities of board members, including whether the individual is a Board Chair
* the regularity of meetings.
	1. Appointing ministers should seek assurance that the individual will be able to devote adequate time to their duties in accordance with minimum attendance requirements (an expectation of attendance at a minimum of 75 per cent of meetings).

## Individuals in single officer roles should generally not be appointed to other non-departmental entities

* 1. Single officer roles often entail significant functions which require a substantial time commitment.
	2. For some single officer roles, legislation does not permit the appointee to engage in any additional employment without prior approval of the responsible minister.
	3. Ministers seeking to appoint someone who is already a single office holder to another non-departmental entity must explain in the Cabinet submission why other suitable candidates are not available. When seeking to appoint someone who performs a single officer role to another non-departmental entity, ministers should have regard to:
* any relevant statutory requirements
* potential conflicts of interest
* the time commitment of the appointments
* the responsibilities of each appointment.
	1. Appointing ministers should seek assurance that the individual will be able to devote adequate time to their duties in accordance with minimum workload requirements. Appointees should notify ministers responsible for their existing appointments before accepting additional appointments, including to ensure that any potential conflicts of interest that may arise from the additional appointment can be appropriately managed.

## Public sector employees are not usually appointed to non-departmental entities

* 1. This is due to the risk of actual, potential, or perceived conflict between their role and duties as public servants and as appointees. For additional guidance on when appointment and remuneration (if any) may be appropriate, see sections [8.3 to 8.8](#_Remuneration_–_other).

### Who is a ‘public sector employee’?

* 1. For the purposes of these Guidelines, a ‘public sector employee’ is defined as:
* a person employed under Part 3 of the *Public Administration Act 2004* (Vic)
* a person employed as or by a public sector body head or a non-departmental entity via an employment agency or contract. This includes secondments from the private sector and staff acquired through labour hire firms.
	1. Employees of universities and Victorian local governments are not considered to be ‘public sector employees’ for the purpose of these Guidelines.

### When can public sector employees be appointed to non-departmental entities?

* 1. Some circumstances require that a public sector employee be appointed to a position that is directly related to their role. These circumstances include:
* *ex-officio* appointments (i.e. as a requirement of their substantive position)
* nominees or delegates of a minister or a departmental Secretary
* when there is a statutory requirement for public sector representation.
	1. In some circumstances it may be permissible to appoint a public sector employee to a position that is not a requirement of their substantive position. This can only occur if:
* they are selected as the result of a merit-based appointment process, carried out in accordance with [section 3](#_A_robust_recruitment) of these Guidelines
* their skills, experience and personal qualities are required by the board or single officer role
* specific reason is given as to why the public sector employee is the best candidate for the role
* no material conflict exists between the board appointment and the employee’s substantive role. A conflict is not ‘material’ for these purposes if the conflict is trivial and can be managed with appropriate board procedures. Join a Public Board’s [Conflicts of Interest and Duty as a Board Director](http://vpsc.vic.gov.au/resources/conflicts-of-interest-and-duty/) guide provides advice to identify, avoid and manage conflicts of interest and duty for board members. Prior to the appointment of a public sector employee, written confirmation should be sought from their employer to ensure no material conflict exists.

For guidance on when remuneration (if any) may be appropriate see [sections 8.3 to 8.8](#_Public_sector_employees_1).

## Members of Parliament should not ordinarily be appointed by the executive government to non-departmental entities

* 1. The role of an MP includes representing their constituents, attending Parliament (including any Committee roles) and, if they are not an independent, representing their Party. These roles can conflict with the roles that are involved in being appointed to a non-departmental entity, such as advising executive Government or overseeing public entities. However, there are instances where MPs are appointed to non-departmental entities, for example where a MP is appointed to assist the Government to engage with a particular sector via a non-departmental taskforce.
	2. Legal advice is required before appointing a Member of Parliament to a non-departmental entity. If a Member of Parliament is appointed to, and is eligible to be paid for, being a member of a non-departmental entity, they may be in breach of sections 49 and 55 of the *Constitution Act 1975* (Vic) (potentially causing their seats to be vacated) unless an Act allows them to be so appointed. Legal advice must be sought on a case-by-case basis before any appointment of Members of Parliament to non-departmental entities whether advisory or otherwise.
	3. The appointment must also be authorised by Cabinet. The Cabinet submission should confirm that there is legal advice that the proposed appointment is not in breach of the *Constitution Act 1975 (Vic)*. It should also include reasoning why appointing a Member of Parliament rather than a member of the community is appropriate in the circumstances. Consideration should be given to whether the appointment of a Member of Parliament to a non-departmental entity may impact the relationship between the entity and government (such as the nature of advice and consultation).
	4. Ministers appointed to boards within their portfolio in an ex-officio capacity do not require legal advice.

## It is preferable that appointees reside in Victoria

* 1. This is to help ensure that they act in the best interests of the State, understand Victorian issues and due to the high costs associated with inter-state and overseas travel. Circumstances that require the appointment of someone who resides in another state or overseas should be explained in the relevant Cabinet submission or ministerial brief. The Cabinet submission or ministerial brief should also outline whether travel costs will be incurred by the appointee or the entity.

## Lobbyists are ineligible to be appointed to relevant boards

* 1. Lobbyists and Government Affairs Directors who must include details in the [Register of Lobbyists](https://www.lobbyists.vic.gov.au/) (as defined in the [Lobbyist Code of Conduct](https://www.lobbyists.vic.gov.au/code-of-conduct)) are ineligible for appointment to any board that has functions which relate to any matter on which the lobbyist has represented the interests of third parties in the previous 12 months (whether in a paid or unpaid capacity).

# Probity checks and a Declaration of Private Interests are mandatory for all appointments, unless an exemption applies

* 1. Probity checks must be undertaken for all appointments, including reappointments, co-opted members, and proxies appointed by Government.

## Probity Checks

* 1. Probity checks are used to determine the suitability of a candidate, including whether a short-listed or preferred candidate:
* is or has been insolvent
* has a police record
* has been convicted of an indictable offence
* has been convicted of fraud
* has been disqualified from acting as a director or acting in the management of a company.
	1. Probity checks provide both the Government and the public assurance that appointees have a history of personal integrity, and a demonstrated capacity to manage their financial and business affairs.
	2. The mandatory completion of a statutory declaration by a candidate attesting to their integrity does not provide sufficient assurance of an appointee’s integrity or their capacity to manage business affairs.
	3. Subject to any legislative requirements, a past criminal conviction or declaration of bankruptcy does not preclude a candidate from being appointed. However, consideration should be given to whether the appointee currently has the personal integrity to be effective and authoritative in the role and capacity to manage business affairs.
	4. If a proposed candidate has a disclosable probity outcome, such as a criminal record or a history of bankruptcy, the relevant Cabinet submission should address the probity matter and provide a rationale for why the proposed appointment remains appropriate.
	5. It is recommended that probity checks are not completed too far in advance of an appointment commencing to ensure the information is up to date. It is recommended that probity checks are completed no more than three months prior to Government considering the appointment.

## Mandatory probity checks

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

**Nationally Coordinated Criminal History Check**. As Nationally Coordinated Criminal History 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.

**Check of the Australian Securities and Investment Commission (ASIC) Register of Persons Banned and Disqualified.** A register of persons banned or disqualified under the provisions of the *Corporations Act 2001* (Cth). Searches can be undertaken by accessing the [ASIC website](http://www.asic.gov.au).

**Australian Financial Security Authority (AFSA) National Personal Insolvency Index (NPII) check.** This database is 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](http://www.afsa.gov.au).

The **ASIC Register of Persons Banned and Disqualified** and the **AFSA National Personal Insolvency Index** checks can be performed online with results available immediately.

For *Corporations Act 2001* (Cth) entities, the law does not allow an individual to be an officeholder if they are:

* currently bankrupt;
* subject to a personal insolvency agreement or composition under the *Bankruptcy Act 1966* (Cth); or
* have been convicted of offences like fraud or breaching duties as an officeholder.

## Other background checks should also be undertaken

* 1. In determining the suitability of an appointee for a role, departments should also undertake a search of publicly available information to validate the information that the appointee has provided as part of the recruitment process and to ensure that there are no other sensitivities that may impact their appointment.
	2. It is recommended that search include the following:
* web search of appointee’s name
* review of the appointee’s LinkedIn profile (if they have one)
* search of appointee’s name in media publications.
	1. Departments should also check if an appointee is registered on the [Register of Lobbyists](https://www.lobbyistsregister.vic.gov.au/lobbyistsregister/main/index.htm) or the [Register of Government Affairs Directors](https://gads.lobbyistsregister.vic.gov.au/). The [Lobbyist Code of Conduct](https://www.lobbyistsregister.vic.gov.au/lobbyistsregister/documents/Vic_Gov_Professional_Lobbyist_Code_of_Conduct_Nov_2013.pdf) contains specific obligations for lobbyists or Government Affairs Directors who are appointees to a government board or committee.

## Management of conflicts must inform the appointment

* 1. A Declaration of Private Interests (DOPI) must be made by all appointees:
* before initial appointment[[2]](#footnote-3)
* if reappointed
* annually during the term of the appointment
* if there is a material change in the appointee’s interests (including a change in their substantive employment or if they are appointed to an additional Victorian government board).
	1. The DOPI is used to identify real or perceived conflicts of interest that could present a significant risk to the operation of the board or entity. Departments may prepare and use their own DOPI templates, noting that they must still address the same topics in the [DPC te](https://www.vic.gov.au/guidelines-appointment-remuneration)[mplate DOPI.](https://www.vic.gov.au/guidelines-appointment-remuneration)
	2. Appointments and reappointments are contingent on candidates completing a DOPI, including a conflict management plan for any relevant conflicts, to the satisfaction of the minister. The department briefing the minister on the appointment is responsible for reviewing and identifying any real or perceived conflicts of interest based on their understanding of the appointee’s proposed role and assessing the adequacy of the conflict management plan. The department should brief the minister on any proposed conflict management plan.

## Waivers and exceptions

### Ex-officio appointments

* 1. Where members are appointed due to holding another office or position (generally a requirement in statute or terms of reference), the member is appointed on an ex-officio basis.
	2. Probity checks and a DOPI are not required if a public sector employee is a member of an entity in an ex-officio capacity.

### Bodies without formal decision-making responsibilities

* 1. On occasion, ministers may approve the waiver of probity checks and a DOPI for appointments to entities without formal decision-making responsibilities over policy, service delivery or public funds. To enable ministers to make this decision, departments must brief the minister on reasons why probity checks need not been undertaken.
	2. If the appointment also requires consideration by Cabinet, the submission must state why the minister has determined that some (or all) of the necessary probity checks were not undertaken and/or why a DOPI is not required.

### Legislative requirement to appoint serving judges in an ex-officio capacity from the Supreme, County or Magistrate’s Court

* 1. There may be occasions where a judge is appointed to a non-departmental entity, particularly for ex-officio appointments where a judge is required under legislation.
	2. The Chief Justice has pre-existing oversight of probity for judges and the appointment submission should therefore note that probity checks and a DOPI are not required.
	3. In place of a DOPI, serving judges must confirm in writing to the responsible minister that he or she is not aware of any matter that would give rise to a conflict of interest in being appointed to the entity concerned. The appointment submission should note that the minister has received this written confirmation.
	4. This exemption only applies to statutory appointments that require the appointee to be a serving judge. If a serving judge is nominated for appointment to a role that does not have a legislative requirement to appoint a serving judge, standard DOPI and probity requirements apply.

### Waiver of National Criminal Record Check for Cemetery Trusts

* 1. The secretary responsible for Cemetery Trusts may approve a waiver of a National Criminal Record Check for appointments and re-appointments to unpaid Cemetery Trusts. The responsible secretary may waive this check if he or she considers that the operation or assets of the entity do not pose a significant financial or non-financial risk to the State.
	2. If a waiver is granted to a Cemetery Trust, the circumstances for the waiver must be reviewed by the secretary at least every three years to ascertain that the criteria for granting the exemption are still valid.
	3. The discretion to waive the National Criminal Record Check does not extend to any Class A Cemetery Trust as defined under section 3 of the *Cemeteries and Crematoria Act 2003.*

### Time-sensitive appointments

* 1. In some circumstances, the appointment process may need to be expedited. This may be the case where an incumbent appointee resigns abruptly, or where Government establishes an inquiry, taskforce, or expert panel to complete a specific task within constrained timelines. Some probity checks (particularly the National Criminal Record Check) can take some time to process, and may not be available when the appointment proceeds to the approval stage. In these circumstances, the appointment may be conditionally approved pending completion of satisfactory probity checks, noting that these checks will need to be completed prior to Governor in Council consideration (where applicable).
	2. If considered by Cabinet, the appointment submission should provide reasons why the appointment is time-sensitive and should seek conditional approval for the appointment pending completion of satisfactory probity checks. [Section 9](#_Approving_an_appointment) provides further information on approval processes.

### Acting appointments

* 1. Probity checks are not required where an existing member of the board acts in another board position, for example, where a Deputy Chair acts as the Chair.

# Board appointments should be remunerated in accordance with the relevant classification for the board

* 1. Each board must be classified into one of the four Groups (A, B, C or D) outlined in the schedules to the Guidelines. Group A include major commercial boards of Corporations Act entities. Group B include significant industry or Government advisory bodies and quasi-judicial tribunals. Group C include advisory committees, registration boards and management boards of smaller organisations. Group D entities are for Government Inquiries.
	2. The classification of an entity determines the level of remuneration and the approval process required for appointments. Departments should retain records of the classification of their portfolio entities. Classifications of existing entities can be found at [public board appointments Victoria](http://www.publicboards.vic.gov.au/).
	3. Ministers are responsible for classifying and reclassifying (where required) the entities within their portfolio. However, Governance Branch, DPC, must be consulted when determining the proposed classification or reclassification for all entities. Any remuneration change resulting from the reclassification of a board must be endorsed by Cabinet and/or minister and Governor-in-Council (where required) before any increased payment is made.
	4. Within each of the Schedules outlined below there are bands of remuneration. Ministers determine the level of remuneration from within the specified bands. When setting remuneration levels within the band, consideration should be given to:
* the nature of the work: whether it is complex, multifaceted and whether the board may be required to direct significant organisational change.
* the degree of risk and profile of the board, including:
	+ whether there is personal risk in both financial terms and personal reputation
	+ the degree of accountability and responsibility
	+ whether the board independently sets long term strategies and policies and has final authority to decide all strategic and operational directions
	+ whether decisions have a major impact on long term organisational performance and will influence the public perception of government.
* the degree of fiscal responsibility, current economic conditions and relevant financial considerations
* the skills and experience of the appointee: whether extensive commercial experience or other expert knowledge is required
* a commitment to gender equality and closing the gender pay gap.

## Boards with governance responsibilities should be paid remuneration as a default position

* 1. Subject to any legislative or constitutional requirements, it is generally within Ministers’ discretion to set remuneration, including choosing to not pay any remuneration. However, not paying board members who are appointed in their personal capacity may be a barrier to attracting a diverse pool of qualified candidates and may not align with the accountability and professionalism expected of government boards.
	2. As a default position, boards with governance responsibilities should be paid remuneration within their relevant classification. This reflects the significant responsibilities that such boards have in the stewardship and oversight of government entities. The default position does not apply to:
* small Crown land committees of management
* small cemetery trusts; and
* school councils.

## Members appointed to annual-fee paying Group A and B boards may be compensated for intensive work on board sub-committees

* 1. Ministers may approve additional fees to compensate members of annual-fee paying Group A and Group B boards for work on sub-committees of the board.
	2. When considering providing a board with additional committee fees, ministers should assess the responsibilities, commitment required and the level of remuneration warranted by the committee work and the annual fee level paid to board members. The minister must approve payment of any additional fees.
	3. The approved level of fees are outlined in Schedule A and Schedule B. These fees are an absolute ceiling, regardless of the number of committees to which a board member is appointed and should be considered in the context of the annual fee level paid to board members. Generally, board members should not be involved in more than two committees in addition to their board membership.

## Daily rates – full and half day rates (most B and all C boards)

* 1. Daily rates are recommended for all Group C boards and the majority of Group B boards. This is because the workload, regularity of meetings, and other board activities can vary over the course of the year.
	2. The daily rate specified in the relevant Schedule is the maximum payable for official duties on a given day. Where official duties equal or exceed four hours, the maximum should be paid. Official duties of less than four hours should be paid at half the daily rate.
	3. Daily rates are not capped at an annual maximum amount. However, departments should monitor the performance of these entities, and advise the relevant minister as required, to ensure that payment is made when the relevant duties have been performed and the remuneration structure is appropriate.
	4. As a guide, ‘official duties’ may include the following:
* attendance at meetings, including official committee meetings of the board and other necessary activities, such as group site visits
* formal visits with industry representatives
* for Group B and C entities – in special circumstances, authorised by the minister, days spent on additional work directly related to the business of the body, such as preparation of reports formally commissioned for a meeting or for Government. If substantial blocks of time are involved, a separate rate should be negotiated
* for Group D entities only – days spent on work directly related to the business of the organisation (i.e. preparation of reports commissioned for a meeting of the Government).
	1. Payment must not be made for:
* individual research, or reports (unless authorised by the minister)
* preparation time for meetings (as this is incorporated into the daily fee).

## Remuneration levels for Group D entities are not specified in these Guidelines

* 1. Ministers should determine the level of remuneration for Group D entities on a case-by-case basis, also giving recognition to the intensity of the workload and the expertise required.

## Remuneration above the bands

* 1. In rare cases, a minister may determine that an appointee should be remunerated at an amount above the specified bands. This may be if a board member is asked to adopt a quasi-executive role or take on additional responsibilities. Additionally, the minister may consider factors such as labour market pressures in the relevant industry, remuneration rates of comparable appointments, an increase in the appointee’s responsibilities (in either a temporary or ongoing capacity).
	2. Cabinet approval is required for all proposals to remunerate an appointee above the bands. Departments should consult Governance Branch, DPC, before seeking Cabinet approval.
	3. To ensure consistency and fairness, Cabinet submissions must provide a strong rationale for why the higher rate is considered necessary.

## There is no separate scale of fees for Deputy Chairs

* 1. If a Deputy Chair is appointed, payment will be made at the members’ rate. If the Deputy Chair assumes the role of the Chair, the Chair’s fee will be payable for the period the Deputy Chair acts as the Chair. The remuneration of the Deputy Chair when acting as the Chair must be outlined in the Deputy Chair’s instrument of appointment.

# Remuneration of single officer appointments

* 1. The remuneration bands in these Guidelines do **not** apply to single officer appointments.
	2. Unless otherwise specified in legislation, ministers are responsible for setting remuneration for single officer appointments, subject to Cabinet approval. In determining remuneration levels for single officer roles, the remuneration bands for public service and public entity executives set by the Victorian Independent Remuneration Tribunal are a helpful guide. The remuneration bands can be found on the [Victorian Independent Remuneration Tribunal website](https://www.vic.gov.au/remuneration-bands-executives-employed-public-service-bodies).
	3. The rationale for the proposed remuneration should be outlined in the Cabinet submission.

# Remuneration – other considerations

## Approving remuneration levels

* 1. Unless specified in statute, remuneration is approved by the same decision-maker that approves the appointment (e.g. the minister or Cabinet).
	2. Approval requirements for appointments and remuneration are outlined in [section 9.](#_Approving_an_appointment)

## Exclusions and exceptions

### Public sector employees

* 1. As per [4.12-4.16](#_Public_sector_employees_2), public sector employees are generally not appointed to Government boards, because of the risk of actual, potential or perceived conflict between their role and duties as public servants and as board members.

#### Public sector employees and executive officers are only eligible for remuneration under certain criteria

* 1. If the appointment is an *ex-officio* appointment (i.e. as a requirement of their substantive position), public sector employees are not eligible for remuneration.
	2. Subject to the requirements for the appointment of a public sector employee at [4.12 to 4.16](#_Public_sector_employees_2)
* full-time and part-time public sector employees are only eligible for remuneration if the proposed appointment is not *ex-officio*[[3]](#footnote-4)
* the work required for the board will be undertaken in the employee’s own time, or during periods of approved leave, and
* the public sector employee’s substantive employer[[4]](#footnote-5) must confirm in writing that the work involved in the appointment can, and will, be performed in the employee’s own time.[[5]](#footnote-6) This confirmation must also be received prior to reappointment if the appointee’s role or employer has changed since the initial appointment.
	1. In relation to an executive officer or equivalent, departments must fulfil the requirements at [sections [4.9 to 4.13](#_Public_sector_employees_2)](#_When_can_public_1). They must also seek written approval for the proposed remuneration of the public sector executive officer from the Secretary of the relevant portfolio department responsible for the non-departmental entity to which the appointment is being made. This must occur before seeking approval for the appointment itself. If Cabinet consideration is required, the approval submission should note that such approval has been sought and granted.
	2. If an executive officer or equivalent is considered for reappointment, the department should seek written approval for their remuneration ahead of seeking approval for the reappointment, unless:
* written approval from the Secretary was obtained at the time of the initial appointment, and
* there has not been a material change to their employment since the time that written approval from the Secretary was obtained (such as a change of position or employer).

#### Victorian Public Sector Voluntary Departure Packages

* 1. Recipients of Victorian Public Sector Voluntary Departure Packages (VDPs) are not eligible for remuneration from any public sector employer for one year from the date of their separation.

### Appointees are eligible to be reimbursed for reasonable out of pocket expenses

* 1. All appointees, whether remunerated or unremunerated, are eligible to be reimbursed for reasonable out-of-pocket expenses such as travelling, accommodation, meals and other incidental expenses associated with attendance at meetings, overnight absence from home or absence from the normal work location during field duties. Such reimbursement will be in accordance with the policies of the portfolio department.

### Payments should only be made to the appointee in their personal capacity

* 1. Remuneration and any other payments to appointees are personal and should only be made to the appointee in their personal capacity. Payments to third parties, including trusts or companies associated with the appointee, are prohibited, unless payments are made to a nominating organisation as described in section 8.11. Payments may be made to an appointee’s personal superannuation account. Payments should not be made on invoices.
	2. A payment to a third party is allowable in circumstances where organisations with nomination rights to bodies nominate an employee to represent them on that body. In this case the employer with nomination rights may be entitled to receive payment to compensate for the time spent by their employee representing the organisation on the body.

### Annual remuneration adjustment for boards

* 1. The remuneration bands contained in Schedules A – D and committee fees payable to Group A and B annual-fee paying boards may be subject to annual adjustment determined by the government for each financial year. Ministers may review the remuneration (and committee fees, where applicable) paid to boards and committees with a view to passing on the adjustment in full or in part.
	2. Factors such as ministerial satisfaction, budget and performance may be considered when any review of remuneration is conducted.
	3. Cabinet approval is not required to pass on this adjustment.

### Annual remuneration adjustment for single officer roles

* 1. The remuneration of single officer roles may be subject to annual adjustment determined by the government for each financial year. Ministers may review the remuneration of single officer roles with a view to passing on the adjustment in full or in part.
	2. Factors such as ministerial satisfaction, budget and performance may be considered when any review of remuneration is conducted.
	3. Cabinet approval is not required to pass on this adjustment.

### The remuneration levels in these guidelines do not constitute the Total Cost to the Employer

* 1. The remuneration levels set out in the Schedules to these Guidelines reflect the remuneration to the recipient and include any non-cash benefits which should be subject to Fringe Benefits Tax (e.g. provision of a motor vehicle). Departments should be aware of the Total Cost to the Employer (TCE) for entities within their portfolio. The remuneration levels set out in the Schedules do not include any applicable superannuation benefit, WorkCover costs or Payroll tax. Departments will need to take these obligations into account when considering the TCE.

### The remuneration levels in the Schedules to these Guidelines are exclusive of superannuation

* 1. Under the *Superannuation Guarantee (Administration) Act 1992* (Cth) all employers are required from 1 July 1992 to provide a minimum level of superannuation for all employees who earn more than the minimum per month prescribed by that Act. It is current practice that Government employers will pay only the minimum level of superannuation required under the Act.
	2. The remuneration levels set out in the Schedules to these Guidelines are exclusive of superannuation.
	3. The State’s superannuation obligations with respect to appointees should be ascertained on a case by case basis, with the assistance of staff from the ATO's Superannuation Information Line.

### Workcover and Payroll tax costs

* 1. WorkCover and Payroll tax are the other components which should be included in the TCE, but not in the remuneration package. The WorkCover cost is a variable cost dependent upon the agency's premium rate for any given year. Payroll tax is a determined percentage of salary and is paid by the employer. The department facilitating the appointment will need to ensure WorkCover and Payroll tax obligations are met, and included in the TCE. In most cases, WorkCover and Payroll tax will not be additional costs to employers as these have been incurred, in some form or another, since positions were established.

### Provision of a motor vehicle to board members

* 1. Board members who are remunerated on an annual basis may be given access to an agency vehicle for business purposes. Motor vehicles should not be provided to appointees who are paid on a daily basis.
	2. Generally, board members should not be given access to motor vehicles for private use. If the board decides to provide a motor vehicle to a board member then the full cost of the private use component, calculated using an appropriate methodology, must be borne by the board member through a salary sacrifice arrangement. Departments will also need to seek specialist tax advice on a case-by-case basis to understand the tax implications if a motor vehicle is provided for private use.

# Approving an appointment

## Cabinet approval

* 1. Cabinet approval (in addition to minister or Governor-in-Council approval, as relevant) is required for the appointment and remuneration of:
* 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 single officer appointments made by the relevant minister or Governor in Council ([see sections 2.2 to 2.4](#_The_Guidelines_apply)).

In addition, Cabinet approval is also required for:

* proposed appointments of sitting Members of Parliament ([see sections 4.14 to 4.17](#_Members_of_Parliament))
* irregular terms and conditions, for example, remuneration above the bands ([see sections 6.16 to 6.18](#_Remuneration_above_the))
* elevation of a Member or Deputy Chair of a Group C entity to a position that would usually be considered by Cabinet (for example, the Chair position), where the Deputy is elevated to this position for more than three months, subject to legislative requirements or terms of reference (e.g. if the Act requires the Deputy to be automatically elevated if the position is vacant, Cabinet approval is not required)
* appointments considered to be sensitive or significant (please consult Governance Branch, DPC to determine whether the appointment is sensitive or significant).

## When may an appointment be made without Cabinet approval?

* 1. Subject to legislative requirements and the exceptions outlined in [sections 6.16 to 6.18](#_Remuneration_above_the), ministers have discretion to approve the appointment and remuneration of:
	2. all appointments to Group C entities except non-elected Chairs
	3. all appointments to Group D3 entities.

### Short-term appointments without Cabinet approval

* 1. Short-term appointments to non-departmental entities for periods of up to three months may be made on the recommendation of the minister without the prior approval of Cabinet.
	2. This exemption from Cabinet consideration for short-term appointments is for exceptional circumstances and can only be used once. Any subsequent short-term or permanent appointments to the same role will require Cabinet approval.
	3. Efforts should be made to permanently fill a vacancy while a short-term appointment is in place.

## Statutory appointments may also need to be made by the Governor-in-Council

* 1. Some statutory appointments are made by the Governor-in-Council, as outlined in the relevant legislation. All Governor-in-Council orders of appointment follow a similar format. The Clerk, Executive Council, can provide up to date templates.
	2. For more information on the Executive Council and making Orders in Council, please contact the Clerk of the Executive Council at executivecouncil@dpc.vic.gov.au.
	3. If an appointment was approved by Cabinet and then made by Governor-in-Council, then any changes to the schedule (including remuneration) must also be approved by Cabinet and made by Governor-in-Council.

# Finalising an appointment

## Advising appointees of their legal responsibilities

* 1. Depending on the nature of the role, appointees may be taking on various legal responsibilities.
* All appointees to ‘boards of management’[[6]](#footnote-7) are subject to common law obligations and duties as Directors. Depending on the entity, they may also be subject to specific statutory duties and obligations, including obligations under the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
* If the non-departmental entity is incorporated under the *Corporations Act 2001* (Cth) or is established under the *State Owned Enterprises Act 1992* (Vic), appointees may have specific legal obligations as company directors.
* Appointees to single officer roles may have legal responsibilities specific to the role to which they are appointed.
	1. The Government and its representatives should not provide legal advice to potential appointees of their personal liabilities and responsibilities, which are often complex. Departments and entities should instead advise potential appointees to seek independent legal advice. Costs for this advice should be borne by the appointee. Potential board appointees can also seek specialist information and advice from other sources, such as the Australian Institute of Company Directors.
	2. In relation to personal financial interests, departments and entities should advise potential appointees to seek independent financial advice.

## Inducting board appointees

* 1. Induction procedures should be in place to enable new board members to participate fully and actively in board decision-making at the earliest opportunity. Join a Public Board has issued a [checklist](https://vpsc.vic.gov.au/resources/induction-resources-for-board-directors/) to assist with board induction.
	2. At a minimum, all board members should be provided with:
* [Integrity guidance](https://www.boards.vic.gov.au/integrity-guidance-board-directors) for board directors
* a code of conduct – the Join a Public Board’s [Code of Conduct for Directors of Victorian Public Entities](https://www.boards.vic.gov.au/code-conduct-directors-victorian-public-entities) and any other material endorsed by the board and specific to the non- departmental entity
* conflict of interest policy and guidance - either material endorsed by the board and specific to the non-departmental entity, or Join a Public Board’s [Conflicts of Interest and Duty as a Board Director](https://www.boards.vic.gov.au/conflicts-interest-and-duty-board-director) guidance.
* relevant establishing legislation, Order-in-Council instruments or constituting terms of reference
* all policies adopted by, or relevant to, the non-departmental entity or the board of the non-departmental entity
* an accurate overview of the current financial, strategic and operational position of the non-departmental entity
* a description of the respective roles of, and the relationships between, the entity, the relevant department and the responsible minister
* if applicable, an understanding of the roles and responsibilities of senior executives.

## Planning and reporting to support good governance

* 1. Government relies on accurate and comprehensive data to monitor progress towards meeting its policy objectives. Departments also need accurate data to help with identifying upcoming vacancies. Under the [*Guidelines for maintaining data about Victorian entities and appointments*](https://www.vic.gov.au/guideline-maintaining-data-about-victorian-entities-and-appointments)departments are required to:
* ensure the Government Appointment and Public Entities Database (GAPED) is comprehensive and accurate
* update GAPED within one month of any significant change to an entity within their portfolio (including an appointment commencing or ending, a chance to the terms of an appointment or any other change that results in the data being inaccurate or misleading).
	1. To assist with maintaining accurate GAPED data, the appointing entity is required to:
* maintain a schedule of expiry dates for statutory appointments to identify forthcoming vacancies within their portfolios
* plan for board appointments, by briefing the minister on forthcoming vacancies, establishing recruitment processes, preparing selection criteria and position descriptions.

# Privacy and data protection

* 1. Departments must treat all personal information provided by an individual in support of an appointment application in accordance with the *Privacy and Data Protection Act 2014* (Vic) (the Act).
	2. The Act outlines how personal information must be collected and handled in the Victorian public sector. The Act sets out Information Privacy Principles (IPPs) which must be observed by Victorian Government departments and other public sector bodies when handling personal information. These principles cover the collection, use, disclosure, quality, security, access and correction of personal information by public sector bodies.
	3. Personal information can only be used and disclosed for the primary purpose it was collected and for any related secondary purposes. Departments must notify applicants about the use of personal information at the time the information is collected. Personal information can also be used and disclosed for other secondary purposes if consent is obtained.
	4. In the context of appointments to boards of non-departmental entities, any reporting board data to be provided to DPC, the Victorian Public Sector Commission and Cabinet and the sharing of applicant information between departments is unlikely to fall within the primary purpose for which the personal information was collected. To ensure compliance with the Act, departments must obtain individuals’ consent to disclose personal information for these reporting and sharing purposes by DPC, the Victorian Public Sector Commission and Cabinet.
	5. A template collection and consent form and a template notice advising candidates how the department will deal with the personal information collected are in the [Personal Information and Privacy Consent Form](#_Personal_Information_and).
	6. Departments should also advise applicants and interested persons that they are responsible for making third parties aware that any information they have provided about that third party, e.g. information regarding referees in an interested person’s *Curriculum Vitae*, may be passed on to other Victorian Government departments.
	7. The collection of personal information is also subject to the right of privacy under the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

# Resources

The following resources provide useful supplementary information to assist departments to undertake the appointment process for non-departmental entities.

[Best Practice Recruitment and Selection Toolkit](http://vpsc.vic.gov.au/html-resources/best-practice-recruitment-and-selection-toolkit/)

[Cabinet Handbook](https://www.vic.gov.au/cabinet-handbook)

[Conflict of Interest and Duty Guidance for Directors](http://vpsc.vic.gov.au/resources/conflicts-of-interest-and-duty/)

[Director’s Code of Conduct](http://vpsc.vic.gov.au/resources/directors-code-of-conduct-and-guidance-notes/)

[Diversity on Victorian Government Board Guidelines](https://www.vic.gov.au/node/24060)

[Integrity Guidance for Board Directors](https://www.boards.vic.gov.au/integrity-guidance-board-directors)

[Join a Public Board](https://www.boards.vic.gov.au/)

[Recruitment and Appointment to the Board: Overview of Ministerial, Departmental Secretary and Board Chair Responsibility](https://vpsc.vic.gov.au/executive-employment/victorian-public-entity-executive-employment/recruitment-and-appointment-to-the-board/)

[Governance Toolkit for Recruitment and Appointment to the Board](https://vpsc.vic.gov.au/governance/recruitment-and-appointment-to-the-board-a-governance-officers-toolkit/)

[Victorian Gender Equality Strategy](https://www.vic.gov.au/our-gender-equality-strategy)

[Board Director Induction: A guide and checklist on minimum requirements for inducting new board directors](https://www.boards.vic.gov.au/board-director-induction)

[Assessing Public Board Performance: A guide to help your board assess its performance and that of chairs and directors](https://www.boards.vic.gov.au/assessing-public-board-performance)

## Schedule A: Group A organisations

Effective 1 July 2024

Note: Remuneration levels are exclusive of any superannuation obligations.

|  |  |  |  |
| --- | --- | --- | --- |
| **Band** | **Classification criteria** | **Chair** | **Member** |
| A1 | **State Owned Enterprises (SOE)** incorporated under the *Corporations Act 2001* or corporatised businesses with a turnover of over $1 billion or assets over $1 billion or profit over $100 million. **Statutory Authorities** determined by the Premier and Cabinet to warrant inclusion in this group. **OR - if the business is a new business or facing particular challenges that warrant special consideration.**  | $82,722 to $155,176 | $41,363 to $67,985 |
| A2 | **GBEs** incorporated under the *Corporations Act 2001* or corporatised businesses with a turnover of between $500 million and $1 billion or assets between $500 million and $1 billion or profit between $50-100 million, or any combination of these factors,AND**Statutory Authorities** with a turnover of over $1 billion or assets over $1 billion or operating surplus over $100 million or any combination of these factors.  | $62,042 to $116,390 | $27,575 to $58,205 |
| A3 | **GBEs** incorporated under the *Corporations Act 2001* or corporatised businesses with a turnover of between $50 million and $500 million or assets between $50 million and $500 million or profit between $5-50 million or any combination of these factors, AND **Statutory Authorities** with a turnover of between $500 million and $1 billion or assets between $500 million and $1 billion or an operating surplus between $50 million and $100 million or any combination of these factors.  | $41,363 to $87,289 | $22,058 to $40,793 |
| A4 | **GBEs** incorporated under the *Corporations Act 2001* or corporatised businesses with a turnover of below $50 million or assets below $50 million or profit below $5 million or any combination of these factors, AND**Statutory Authorities** with a turnover of between $50 million and $500 million or assets between $50 million and $500 million or an operating surplus between $5 million and $50 million or any combination of these factors.  | $20,681 to $58,205 | $12,408 to $23,305 |
| A5 | **Statutory Authorities** with a turnover of below $50 million or assets below $50 million or profit below $5 million.  | $13,787 to $29,199 | $8,272 to $15,597 |
| Notes |
| There is no separate allowance or fee for a Deputy Chair. There are no daily sitting fees for those organisations covered by Schedule A, but travel and other appropriate personal expenses will be reimbursed on the basis of actual costs incurred.  |
| Upon ministerial approval, up to $6,352 per annum may be paid to directors who receive annual fees for additional committee work undertaken in recognition of the extra commitment required.  |

## Schedule B: Group B organisations

Effective 1 July 2024

Note: Remuneration levels are exclusive of any superannuation obligations

Annual fee paying boards - significant industry and other key advisory boards

|  |  |  |  |
| --- | --- | --- | --- |
| **Band** | **Classification criteria** | **Chair** | **Member** |
| B1 | Significant industry advisory bodies and other bodies advising Government on key strategic matters. | $20,681 to $58,205 | $12,408 to $23,305 |
| B2 | Other industry boards and bodies advising Government on matters of State-wide significance. | $13,787 to $29,199 | $8,272 to $15,597 |
| Notes |
| Upon ministerial approval, up to $6,352 per annum may be paid to directors who receive annual fees for additional committee work undertaken in recognition of the extra commitment required.  |

Daily fee paying boards - advisory boards, significant boards of management, Quasi-judicial tribunals

|  |  |  |  |
| --- | --- | --- | --- |
| **Band** | **Classification criteria** | **Chair** | **Member** |
| B1 | (a) Quasi-judicial bodies/tribunals that sit and determine matters of significant financial and personal importance to individuals or small groups of people and where there is no other framework governing remuneration and appointments. (b) Chair/Member of Government bodies undertaking significant statutory functions, providing specialist advice to a minister and developing policies, strategies and Guidelines in a broad and important area of operations. Appointees will have extensive knowledge and expertise in the relevant field. (c) Management boards of medium size organisations undertaking one or more functions or providing a strategically important service. Members would have substantial management/business/professional expertise relevant to the field of operations. The operations of the organisation would normally warrant a General Manager at Senior Executive Service-1 (high) or Band 2 (low).  | $441 to $719(per day) | $338 to $622(per day)  |
| Notes |
| There is no separate allowance or fee for a Deputy Chair.  |
| Daily rates are set for the maximum payable for official duties on a given day.  |

## Schedule C: Group C organisations

Effective 1 July 2024

Note: Remuneration levels are exclusive of any superannuation obligations.

Advisory Committees, Registration boards and Management boards of small organisations

|  |  |  |  |
| --- | --- | --- | --- |
| **Band** | **Classification criteria** | **Chair (Fee per day)** | **Member (Fee per day)** |
| C1 | (a) Scientific, technical and legal advisory bodies requiring members to be “experts in their field” and provide the highest level of advice available. Such bodies would be commissioned by and report directly to Government in response to proposals/issues considered important to the general community. (b) Disciplinary boards or boards of appeal for individuals (professional or non-professional) where the members of the board(s) are not required to be legally qualified or do not require the assistance of legal counsel. (c) Management boards of small size organisations undertaking a specific function or providing a discrete service. Members would have substantial management/business/professional expertise relevant to the field of operations. The operations of the organisation would normally warrant a General Manager in the low to middle levels of the SES-1 band.  | $338 to $622 | $262 to $475 |
| C2 | a) Qualifications, regulatory or licensing bodies for recognised professional groups. Such bodies would be responsible for establishing appropriate codes of practice and operating standards, administering relevant legislation and maintaining a register of licensed practitioners. (b) Bodies established by legislation or at the direction of a minister (or Government) to investigate/monitor and advise/report to Government on issues considered to be of importance within the portfolio or where there is a high degree of concern within certain sections of the community. (c) Qualifications, regulatory or licensing bodies in relation to technical, trade or non-professional groups.  | $208 to $475 | $179 to $370  |
| C3 | (a) Advisory committees required to consider issues/matters that are local or affect confined areas including local land and water advisory committees. (b) Trade and para-professional registration and licensing committees where legislation defines qualifications and regulates operating requirements of practising individuals.  | Up to $293 | Up to $251 |
| Notes |
| There is no separate allowance or fee for a Deputy Chair.  |
| Daily rates are set for the maximum payable for official duties on a given day.  |

## Schedule D: Group D organisations

Effective 1 July 2024

Remuneration levels for Group D entities are not specified in these Guidelines due to the higher degree of flexibility required. Ministers should determine the level of remuneration for Group D entities on a case-by-case basis, also giving recognition to the intensity of the workload and the expertise required.

Note: Remuneration levels are exclusive of superannuation obligations.

|  |  |  |
| --- | --- | --- |
| Level | Classification criteria | Chair and member fee |
| D1 | The most important Government inquiries established under the *Inquiries Act 2014* (Vic) requiring urgent consideration of issues arising from serious/contentious situations that may affect a large section of the community. Such bodies would be required to submit a comprehensive report including feasible options to Government within stringent timelines. | Minister to determine and recommend to Cabinet for approval either an annual fee (pro rata) or a daily fee for appointments to D1 and D2 entities. For D3 entities, Cabinet approval is not required.Because of the tight timeframes and intense “hands on” workload associated with Group D organisations, and the consequent need for flexibility so as to recruit appropriate individuals, ministers are to determine remuneration on a case-by-case basis with reference to the intensity of the workload and expertise required. Ministers have the option of offering an annual payment on a pro rata basis or a daily fee. |
| D2 | Important Government inquiries established under the *Inquiries Act 2014* (Vic) requiring consideration of issues that may affect the community. Such bodies would be required to submit a comprehensive report including feasible options to Government within agreed timelines.  |
| D3 | Ad hoc expert panels established for limited time periods to undertake a specific (often technical) task.  |
| Notes |
| There is no separate allowance or fee for a Deputy Chair.  |
| Daily rates are set for the maximum payable for official duties on a given day.  |

# Appendix A – Template Forms

## Declaration of Private Interests Form

This form asks appointees to disclose their private interests and to make an assessment about whether these conflict with their duties as an appointee.

Departments may prepare and use their own DOPI templates, noting that they should address the same topics as the DPC template DOPI.

The DOPI requirements are set out at section 5.12. Further conflicts of interest and duty guidance is available on the [Victorian Public Sector Commission website](https://www.boards.vic.gov.au/conflicts-interest-and-duty-board-director).

The DPC Declaration of Private Interests form is available [here](https://content.vic.gov.au/sites/default/files/2023-10/Declaration-of-Private-Interests-Template.docx).

## Personal Information and Privacy Consent Form

This form asks appointees to disclose certain personal information, identifies how the department will treat the personal information, and explains the purpose for its collection.

Departments may prepare and use their own forms, noting that they should address the same topics in the DPC template consent form. The form allows departments to measure compliance with the Diversity on Boards Guidelines, as set out at section 3.7.

The DPC Personal Information and Privacy Consent Form is available [here](https://content.vic.gov.au/sites/default/files/2023-11/Personal-information-and-privacy-consent-form-template.docx).

# Appendix B – Checklist

|  |  |  |
| --- | --- | --- |
|  Requirement | Page No. |  |
| Section 2: Scope |  |  |
| Do the Appointment and Remuneration Guidelines apply? | 8 | □ |
| Sections 3 – 4: Recruitment and selection |  |  |
| Was the recruitment process open and competitive? If not, explain why an alternative method was chosen in the Cabinet submission. | 13 | □ |
| Are there legislated skills requirements and if so, have they been met? | 11 | □ |
| Has the board composition, skills and diversity matrix been considered?  | 12 | □ |
| Is the gender composition of the board and the portfolio (including Chairs of paid boards) included in the Cabinet submission or Ministerial brief? | 13 | □ |
| Were the following consulted when planning the recruitment and selection process:* Diversity on Boards: diversityonboards@dffh.vic.gov.au
* First Peoples – State Relations: Secretariat.AA@dpc.vic.gov.au
* Regional Development Victoria: rdv@rdv.vic.gov.au
 | 12 | □ |
| Was the appointment vacancy advertised on Join a Public Board? | 14 | □ |
| Is the candidate on three or more Victorian Government boards? If so, consider why other candidates are not available, conflicts of interest and ability to meet attendance requirements (75% of meetings). | 17 | □ |
| Is the candidate in a ‘single officer role’? (e.g. the appointment is the primary employment of the appointee and they are expected to work a set number of days) | 18 | □ |
| Is the appointee a Member of Parliament? If so, consider potential conflicts of interest and whether legal advice is required. | 19 | □ |
| Does the appointee reside in Victoria? If not, provide context (e.g. particularly rare skills or independence required).  | 20 | □ |
| Section 3: Reappointments |  |  |
| Has the candidate previously served on the board? If so, has a performance review been conducted? | 14 | □ |
| Has the rationale for reappointing the candidate been explained in the Cabinet submission or Ministerial brief? | 14 | □ |
| Will the reappointment result in the total term exceeding 10 years? If so, explain why other suitable candidates are not available. | 17 | □ |
| Can the candidate commit to their obligations (including attending a minimum of 75% of meetings)?  | 17 | □ |
| Section 5: Probity and conflicts of interest  |  |  |
| Has a check of the Register of Lobbyists been completed? | 20 | □ |
| Has a Nationally Coordinated Criminal History Check been completed? | 22 | □ |
| Has an Australian Financial Security Authority, National Personal Insolvency Index check been completed? | 22 | □ |
| Has a check of the Australian Securities and Investment Commission Register of Persons Banned and Disqualified been completed?  | 22 | □ |
| Have other background checks been completed (e.g. web search, LinkedIn, social media)?  | 22 | □ |
| Has a Declaration of Private Interests been completed to the satisfaction of the Minister?  | 23 | □ |
| Is there a real or perceived conflict of interest between the candidate’s private interests and this appointment? | 23 | □ |
| Sections 6 – 8: Remuneration |  |  |
| If the appointment is to a governance board, is remuneration proposed? | 27 | □ |
| Is the remuneration in accordance with the relevant classification for the board?  | 27 | □ |
| If the appointee is being paid a daily rate, provide context in the Ministerial brief or Cabinet submission (e.g. number of meetings per year).  | 27 | □ |
| Is the candidate a public sector employee? If yes, can they be remunerated?  | 30 | □ |
| Has the candidate accepted a Victorian public sector Voluntary Departure Package in the last three years?  | 31 | □ |
| Section 9: Approval process |  |  |
| Is the board created under legislation? Do appointments need to be approved by Cabinet and/or made by the Governor-in-Council? | 34 | □ |
| Is the instrument of appointment and resume for the appointee(s) included in the Cabinet submission? | 34 | □ |
| Is the submission being brought to Cabinet within three months of the appointment term commencing? | 11 | □ |

[dpc.vic.gov.au](http://vic.gov.au/dpc%22%20%5Co%20%22Visit%20DPC)

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1. The *Public Administration Act 2004* requires that the boards of most public entities ensure that adequate procedures are in place for assessing the performance of the board and individual directors: see s 81(c). [↑](#footnote-ref-2)
2. As explained in the *Cabinet Handbook*, before Cabinet considers an appointment or reappointment, a DOPI should be received from the candidate and be judged to be satisfactory by the minister. [↑](#footnote-ref-3)
3. Public sector employees are subject to the Victorian Public Sector Code of Conduct. Rule 3.8 prohibits public sector employees from engaging in other employment where the activity which conflicts with their role. [↑](#footnote-ref-4)
4. Where a public sector employee holds a full-time position, the ‘substantive’ employer is the employer of the full-time position. Where the public sector employee holds one or more part time positions, the ‘substantive’ employer is the public sector employer with on-going employment status, or failing that, the public sector employer of the greatest time fraction. [↑](#footnote-ref-5)
5. Section 32 of the *Public Administration Act 2004 (Act)* also requires approval for individuals employed under Part 3 of the Act engaging in outside employment. [↑](#footnote-ref-6)
6. ‘Boards of management’ are responsible for strategy and direction. Boards of management include the boards Statutory Authorities, State Owned Enterprises and Government Business Enterprise and trusts. [↑](#footnote-ref-7)