



Guidance for Intergovernmental Meetings

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Introduction

The National Cabinet system

National Cabinet is the peak intergovernmental forum in Australia. Its role is to manage matters of national significance that require coordinated action by all governments. National Cabinet consists of the Prime Minister (Chair), and State and Territory Premiers and Chief Ministers. A representative of Local Government attends a meeting of National Cabinet once a year.

National Cabinet is supported by Ministerial Councils, including the Council on Federal Financial Relations (CFFR), and the Joint Council on Closing the Gap. These Ministerial Councils support National Cabinet in progressing priority work that requires significant intergovernmental collaboration.

Ministerial Councils reporting to National Cabinet

To support a strategic and focused agenda National Cabinet has established direct reporting lines for some Ministerial Councils to National Cabinet. These Ministerial Councils are reflected on the federal relations architecture diagram at federation.gov.au and will provide a short annual report to National Cabinet.

Chairs of Ministerial Councils with a reporting line to National Cabinet are to submit a two-page summary to National Cabinet through the First Secretaries Group in the first quarter of each calendar year, outlining their achievements during the previous year and up to five priorities (maximum) for the upcoming year. This report should be based on the priorities in the Council's work plan. Commonwealth-State Relations Branch in PM&C will issue guidance on the annual reporting process in the final quarter of each calendar year.

In addition, National Cabinet has tasked some Ministerial Councils to undertake priority work, as indicated on the federal relations architecture diagram and/or as advised by National Cabinet directly. These Ministerial Councils are expected to report regularly to National Cabinet on the status of these tasks, including: a summary of milestones met; next steps and expected finalisation timelines; and issues for National Cabinet's involvement and/or resolution. These reporting lines cease once National Cabinet considers the work has been completed. The cessation of a reporting line does not necessitate disbanding a Council. Ministerial Councils should engage with CFFR when needed, as well as any other relevant Ministerial Councils, on the priority tasks.

To ensure the intergovernmental system remains focused on key priorities, the First Secretaries Group may make recommendations to National Cabinet on the federal relations architecture based on Ministerial Council annual reports and changes to priorities.

Ministerial Councils will engage with CFFR with respect to National Partnerships and other funding agreements, with CFFR to determine their level of involvement in development and negotiation.

Ministerial Councils not reporting to National Cabinet

The Ministerial Councils not represented on the federal relations architecture diagram, but are still required to meet (for example to fulfill regulatory or statutory requirements or discuss priority issues of national significance) can do so without reporting to National Cabinet. These Ministerial Councils should resolve issues independently.

Escalating issues to National Cabinet

If a Ministerial Council determines the need to escalate issues (outside National Cabinet tasking) for National Cabinet's attention, the Chair should write to the Prime Minister requesting National Cabinet consideration of the issue. Escalation should be made with agreement of a majority of members, but may be initiated by the Chair in exceptional circumstances. Where an item is escalated, Ministerial Councils should identify clear options on courses of action to ensure that National Cabinet can adequately consider the issue. The progression of a matter to National Cabinet will ultimately be a decision of National Cabinet. State and Territory Ministers should inform their First Minister of the proposed escalation.

Establishing a Ministerial Council

The establishment of a Ministerial Council with a reporting line to National Cabinet is a decision for National Cabinet (based on advice from First Secretaries Group – see *Annual Review of Ministerial Councils* section below). Where possible, Ministers should aim to deal with matters through ad-hoc meetings and only establish Ministerial Councils when there is a need for ongoing engagement and an ad-hoc meeting would be insufficient.

A Minister wishing to establish a new Ministerial Council without a reporting line to National Cabinet should consult their equivalent Ministers in other jurisdictions. In determining whether to establish a new Council, Ministers should consider:

- The purpose, outcomes and duration of the Council, and ensure it does not overlap with the work of existing meetings
- Whether there is broad support from relevant Ministers in other jurisdictions (as appropriate) for its establishment, and
- Capacity and time constraints of smaller jurisdictions, who have less flexibility to take on additional meetings.

These principles also apply to emerging and/or individual priority issues that require intergovernmental attention from time to time. However, the need for Ministers to meet should be balanced with the need to keep the overall number of inter-jurisdictional meetings limited. Likewise, Councils should be mindful of whether they continue to serve a strategic purpose – see *Disbanding a Ministerial Council* section below.

As soon as practicable, Ministerial Council members should agree to terms of reference that outline the purpose, outcomes and (where appropriate) the duration of the Council, along with Chairing and Secretariat arrangements, as well as rules on the Council's conduct.

Officials from the Chair's department or proposing jurisdiction must inform Commonwealth-State Relations Branch in PM&C of the Ministerial Council's establishment by emailing CommonwealthIGR@pmc.gov.au. PM&C will advise other First Ministers' Departments accordingly.

Disbanding a Ministerial Council

Councils can disband themselves and should do so when:

- their strategic priorities are achieved (including any priority reporting to National Cabinet) with no further priorities identified, or
- the timeframe for resolving those issues expires.

It is incumbent upon meeting members to recognise if key outcomes have transitioned from actions to primarily information-sharing.

Officials from the Chair's department must inform Commonwealth-State Relations Branch in PM&C that the Ministerial Council is disbanding, and confirm that any priority tasking from National Cabinet has been acquitted before the Council is disbanded. PM&C will advise other First Ministers' Departments accordingly.

Meetings

Objectives

In carrying out their work, Ministerial Councils should focus on one or more of the following objectives:

1. To enable national cooperation and consistency on enduring strategic issues

Focus on shared, complex and long-term policy areas, where there are shared or interrelated roles that between the different levels of government requiring sustained cooperation for effective implementation and service delivery. For example, health is a technically complex issue with defined jurisdictional roles, funding and functions. The seamless provision of health services to the community requires a cross-jurisdictional mechanism to resolve policy issues and encourage equity in service delivery, innovation and reform.

2. To address issues requiring cross-border collaboration

Focus on policy areas and issues where the alignment between the states and territories and complementary government policy/service provision improves delivery of/access to services or employment opportunities. For example, the Commonwealth and states and territories have a joint interest in ensuring biosecurity risks are managed effectively across the country, to minimise the spread of diseases, pests and weeds.

3. To perform regulatory policy and standard setting functions

Focus on issues related to shared legislative and regulatory requirements where a cross-jurisdictional mechanism must approve and create or update requirements for policies, standards or codes. For example, national energy policy requires the coordination of legislation, agreements and statutory bodies to coordinate operation of the national energy market, and ensure the secure provision of an affordable, reliable and secure energy grid.

Terms of reference

Each Ministerial Council's terms of reference should provide clear statements on:

- the purpose of the Council
- strategic priorities
- design and operations of the Council, including governance structure
- membership, chairing and secretariat arrangements,
- a mechanism to review the Council's strategic priorities and operations, and
- a sunset clause and plan for disbanding the Council (where relevant).

Terms of reference and administrative arrangements should be regularly reviewed to ensure they remain relevant and fit-for-purpose.

Work plans

State, Territory and Commonwealth Ministers should actively shape work plans, with priority items initiated by Ministers rather than officials.

Ministerial Councils are to produce a forward work plan with up to five priorities per year, which deal with matters that are of significance or require national agreement, including priorities tasked by National Cabinet where relevant. Work plans should detail the priority items and timeframes for completing these, to ensure meetings remain focused on progressing these key priorities. While these work plans do not require formal approval from National Cabinet, they may inform National Cabinet tasking on new priorities.

Complex, long-term reforms should be broken down into stages that can be progressed within 12-18 months. This work should be broken down into discrete, tangible deliverables that can appear on a work plan and drop off when completed.

Issues not substantially resolved within their designated timeframe should be removed from the work plan.

Agendas and papers

The Chair of the Ministerial Council is responsible for finalising meeting agendas. Agenda items can be initiated by State, Territory and Commonwealth Ministers in consultation with the Chair and/or by agreement of a majority of Council members.

Ministerial Council members should agree a suitable process for finalising and circulating agendas prior to a meeting, to ensure all members are adequately prepared and able to actively engage in discussion and decision making on agenda items. This should involve agendas being circulated at least five business days prior to a meeting. Council members should keep these timeframes in mind when initiating new agenda items. However, the timeframe should be flexible enough to allow for the inclusion of urgent or emerging issues as required.

Routine, non-controversial or technical matters can be progressed out-of-session or be delegated to officials.

Items being considered by Ministerial Councils should be covered by a paper or presentation, wherever possible, to facilitate discussion. Agenda papers should be drafted by the jurisdiction leading on the item and circulated at least five business days prior to a meeting. Earlier circulation should be undertaken for major decision items to allow respective jurisdictional Cabinet processes to occur.

Consensus by officials is not required before papers proceed to Ministers but, in the interest of full transparency, papers may indicate which jurisdictions do not support progression to Ministers.

Frequency and format of meetings

Meetings should be held as-needed, to best address and resolve priority issues within the agreed timeframes. Ministerial Councils with a reporting line to National Cabinet should meet at least two times per year. Meetings should usually be scheduled by the Chair or at the request of a majority of members.

In considering timing and frequency of meetings of ministers or officials, particular regard should be had to the interests of and impacts on smaller or more distant jurisdictions, including through consulting with smaller jurisdictions prior to finalising meeting dates.

Ministerial Councils are encouraged to use videoconference, telepresence or teleconference to facilitate meetings if appropriate.

Joint meetings with other Ministerial Councils or groups on issues of shared responsibility should be held as required.

Meetings can be held during a caretaker period but this should be avoided if possible. Attendance and decision making will be assessed on a case-by-case basis consistent with caretaker convention/guidelines in the relevant jurisdiction.

Membership

Forums should comprise Ministers from the Commonwealth, States and Territories. Jurisdictions should determine the relevant ministerial representative depending on the work plan of the Council, noting there is flexibility for additional Ministers from a jurisdiction, senior officials or expert advisers to attend meetings for relevant agenda items to support Ministers, particularly for cross-portfolio issues.

As a general principle, attendance by senior officials should be kept to a minimum to streamline administrative processes. However, Ministerial Councils can call on officials to provide context, key information, and support informed decision making. Similarly, given the complexity of progressing cross-portfolio policy, attendance by additional Ministers can assist with efficient and collaborative decision making and information sharing.

New Zealand and Local Government representative(s) should attend where relevant.

Wherever possible, the aim should be for all Ministerial Council members to be represented at a meeting (including by proxy).

Use of expert advisory groups

Ministers may assemble expert groups to advise them as required, including presenting at meetings. Meetings should rely on existing groups where possible, rather than establishing new groups.

Any newly formed group should be assembled for a specific purpose and timeframe.

Role of senior officials groups

Officials groups should be kept to a minimum, to reduce the number of layers of bureaucracy and streamline the processes surrounding how meetings function.

Ministers may delegate routine, technical or other matters to officials as considered appropriate.

Secretariats

Ministerial Councils can establish secretariats if required, while aiming to keep administrative and bureaucratic processes to a minimum. The secretariat should be in the same jurisdiction as the Ministerial Council Chair, unless otherwise agreed by the Ministerial Council.

A senior official supporting is required to work with the Chair, Secretariat and jurisdictional counterparts to:

- oversee the commissioning and development of papers when required

- report on progress of items at meetings,
- coordinate and provide advice on cross-portfolio priorities that intersect with the Ministerial Council’s strategic priorities, and
- maintain a list of matters previously dealt with.

Secretariat arrangements can be reviewed on an annual or two-yearly basis as determined by each Ministerial Council.

Chairing arrangements

Ministerial Councils can determine their chairing arrangements, which could include: a single chair; a rotating chair; or a co-chair arrangement. Unless otherwise decided by consensus between members, a Commonwealth minister will be the default chair, as well as representing the Commonwealth’s position in discussions and decision making. Consideration could be given to State and Territory chairs or co-chairs in areas of state responsibility.

The Chair has a strategic role in ensuring the Council operates effectively and collaboratively to deliver outcomes requiring joint action by Commonwealth, State, and Territory governments.

The Chair’s responsibilities are to:

- have a thorough understanding of the Council’s work plan and maintain a focus on achieving outcomes
- finalise meeting agendas and ensure all agenda items are discussed within the allocated time
- encourage full participation by all members
- ensure contentious issues are debated in a professional manner and mediate when conflict arises, and
- facilitate decision-making by consensus.

Chairing arrangements should be reviewed on an annual or two-yearly basis, as determined by each Ministerial Council.

Decision making

Ministerial Councils must promote a cooperative and collaborative relationship where all jurisdictions are equal partners in decision making. Consensus decision-making is preferred.

Unless specified by legislation, and where appropriate, decisions should be principles-based and allow individual jurisdictions flexibility to determine the best way to achieve any agreed outcomes. Implementation of decisions is ultimately up to Ministers in each jurisdiction.

Out-of-session process

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

Ministers should agree to a suitable OOS process, including:

- delegation of OOS items to Senior Officials, if appropriate
- who will be responsible for coordinating the OOS
- voting or endorsement procedure, and
- response times.

Cross-portfolio collaboration

Particular consideration should be given to how Ministers and Ministerial Councils progress priorities that cut across portfolios. This is the responsibility of the Chair and all members.

- The Chair of each Ministerial Council should share work plans with other relevant Ministerial Councils to provide opportunity for potential collaboration on shared priorities and to avoid overlap or duplication of priorities.
- All council members should proactively engage with other relevant Minister’s within their jurisdiction to progress priorities that cross portfolios.

For complex reform priorities that cut across portfolios, it may be appropriate for more than one Minister to represent a jurisdiction on a Ministerial Council. In these instances, jurisdictional representation will be a matter for each jurisdiction. Noting voting would occur on a jurisdictional basis.

Other mechanisms that should be considered include joint meetings of Ministerial Councils or establishing time-limited, task orientated taskforces consisting of senior officials across portfolios to progress the work, as well as the use of shared GovTeams sites to support collaboration.

Record keeping

Council members should agree a suitable process for recording decisions and actions agreed by ministers and ensure they are circulated to all members to ensure accountability. These may be shared with other Councils, groups or agencies as needed, to ensure collaboration among Councils with related priorities.

Where formal note-takers are required, they should be limited to one Commonwealth and one state note-taker.

Freedom of information requests

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

Policy impact analysis

As required, Ministerial Councils should address the Policy Impact Analysis Requirements for intergovernmental bodies, available at <https://obpr.pmc.gov.au/>. The Office of Impact Analysis provides streamlined requirements that apply to intergovernmental meetings only.

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

Public communications

Outcomes of meetings should be publicly communicated, preferably on the same day, either via a press release from the Chair or a short communique agreed at the meeting or shortly afterwards.