



Cabinet Handbook

November 2009

FOREWORD

The *Cabinet Handbook* sets out procedures designed to ensure the Cabinet's decisions are based on timely, rigorous and comprehensive analysis of issues and possible responses, including their impact on the Canberra community, the environment and the economy of the Australian Capital Territory (ACT).

Rigorous and timely processes assist the Cabinet in coordinating and structuring its crucial strategic policy and direction setting for the ACT Government as a whole.

The companion *Cabinet Paper Drafting Guide* provides detailed guidance on the content, quality and formatting requirements for Cabinet papers.

In the interests of supporting sound whole-of-government decision making, ministers and officials should follow both the letter and the spirit of the procedures outlined in the *Cabinet Handbook* and the *Cabinet Paper Drafting Guide*. I encourage them to seek the advice and assistance of the Secretary to Cabinet, the Director, Cabinet and Intergovernmental Relations, the Cabinet Secretariat, and their agency's Cabinet Liaison Officer in the discharge of this important function.

Mr Jon Stanhope MLA
Chief Minister
December 2008

This version of the Cabinet Handbook was published in November 2009 and replaces previous versions. Significant amendments have been marked with a sidebar and include revised procedures in relation to the approval by Cabinet of intergovernmental agreements, the creation of the Community Inclusion Committee, and refinements to consultation processes.

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1. CABINET GOVERNMENT IN THE AUSTRALIAN CAPITAL TERRITORY (ACT)

THE ACT EXECUTIVE

1.1 The ACT Executive is established by section 36 of the *Australian Capital Territory (Self-Government) Act 1988 (Cwlth)* (the Self Government Act) and comprises the Chief Minister and up to four ministers.

1.2 Having been elected by the Members of the Legislative Assembly (MLAs), the Chief Minister appoints ministers, including one as Deputy Chief Minister, who must be MLAs. The Chief Minister allocates portfolio responsibilities to ministers and departments through the Administrative Arrangements.

1.3 The powers of the ACT Executive are set out in section 37 of the Self Government Act which provides:

The Executive has the responsibility for:

- (a) governing the Territory with respect to matters specified in Schedule 4;
- (b) executing and maintaining enactments and subordinate laws;
- (c) exercising such other powers as are vested in the Executive by or under a law in force in the Territory or an agreement or arrangement between the Territory and the Commonwealth, a State or another Territory; and
- (d) exercising prerogatives of the Crown so far as they relate to the Executive's responsibility mentioned in paragraph (a), (b) or (c).

1.4 In practice, the ACT Executive meets as the Cabinet and sets policy for the ACT Government through collective, consensus-based decision making. The Cabinet meets regularly and operates under Westminster conventions.

COLLECTIVE RESPONSIBILITY AND CABINET CONFIDENTIALITY

1.5 The principle establishing Executive Privilege around the deliberations of Cabinet and Cabinet papers is not in doubt. It was authoritatively formulated by the High Court in *Commonwealth v Northern Land Council* (1993)176 CLR 604 at 614:

“... it has never been doubted that it is in the public interest that deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made ... despite the pressures which modern society places on the principle of collective responsibility, it remains an important element in our system of government.”

1.6 This convention of collective ministerial responsibility for decisions is central to a Cabinet-led system of government. Cabinet Decisions are binding on ministers as Government policy, and ministers are expected to give their support in public debate to decisions of the Government.

1.7 Ministers should not announce initiatives or expenditure commitments without Cabinet authority. In exceptional cases where prior Cabinet consideration is not possible, the Chief Minister's agreement should be obtained in writing to any such announcement.

1.8 Ministers should not make public statements about items on the Cabinet Agenda that might pre-empt Cabinet's deliberations on particular matters. It is similarly inappropriate for ministers to comment publicly on matters outside their portfolio without the prior agreement of the relevant minister and the Chief Minister.

1.9 The convention of collective responsibility is underpinned by strict confidentiality surrounding Cabinet papers and discussions in the Cabinet Room. Absolute confidentiality allows ministers to discuss proposals frankly while they are developing a collective position.

1.10 Officials present in the Cabinet Room have privileged access to discussions conducted by ministers on this basis of absolute confidentiality. The nature and content of those discussions must not be disclosed. Notes of Cabinet's deliberations must not be made by officials other than the Secretary to Cabinet and the Cabinet Notetaker.

1.11 Officials and ministerial staff have a responsibility to support ministers' obligations under Cabinet conventions.

CARETAKER PERIOD

1.12 Special arrangements apply, by accepted convention, to the operation of the ACT Government in the period immediately before and after an election. Decisions that would bind the incoming government are not normally made during this caretaker period. The Cabinet does not normally meet during the caretaker period.

1.13 Detailed guidance on caretaker conventions is issued by the Chief Minister's Department (CMD) prior to general elections for the Legislative Assembly.

2. CABINET AND CABINET COMMITTEES

2.1 The Cabinet determines its own procedures which also apply to meetings of Cabinet Committees. The Chief Minister chairs, and determines the agenda for, all Cabinet and Cabinet Committee meetings.

2.2 There are four standing Cabinet Committees:

- a) Budget Committee;
- b) Security and Emergency Management Committee,
- c) Ministerial Advisory Committee; and
- d) Community Inclusion Committee.

2.3 Even where officials are members of Cabinet Committees, decisions are made by ministers. Decisions of the Standing Committees do not require further endorsement by the Cabinet.

2.4 The Cabinet may establish the membership and terms of reference of ad-hoc Cabinet Sub-Committees comprising at least two ministers (and officials as necessary).

BUDGET COMMITTEE

2.5 Budget Committee considers expenditure and revenue proposals and meets frequently during the annual Budget process. It also meets regularly through the year to review agencies' performance (including in the delivery of capital programs) and consider possible future budget initiatives. In this latter role, it draws on the advice of the Expenditure Review and Evaluation Committee, which is co-chaired by the Chief Executive of CMD and the Under Treasurer.

2.6 Budget Committee comprises all ministers, the Chief Executive of CMD and the Under Treasurer. The Under Treasurer is routinely accompanied by such officials as are needed to support Budget Committee in its deliberations.

2.7 In addition to the usual Cabinet-in-Confidence classification, all papers for consideration by Budget Committee are classified PROTECTED and must be marked and handled accordingly.

SECURITY AND EMERGENCY MANAGEMENT COMMITTEE

2.8 The Security and Emergency Management Committee (SEMC) provides strategic direction to the ACT Government's preparations for emergencies under an all-hazards planning framework.

2.9 SEMC comprises the:

- a) all ministers;
- b) Chief Executives of CMD, the Department of Justice and Community Safety (JACS), ACT Health, and the Department of Disability, Housing and Community Services (DHCS);
- c) Chief Police Officer ACT Policing (CPO);
- d) Commissioner Emergency Services Agency (the Commissioner); and
- e) Chief Health Officer.

2.10 The Chief Executive of JACS is routinely accompanied by such officials as are needed to support SEMC in its deliberations.

2.11 Papers for consideration by SEMC are settled by the Security and Emergency Senior Officials Group (SEMSOG) which is chaired by the Chief Executive JACS, and comprises:

- a) the Chief Executives of CMD, JACS, ACT Health and the Departments of Territory and Municipal Services, the Environment, Climate Change, Energy and Water, Education and Training, and the Under Treasurer;
- b) CPO;
- c) the Commissioner;
- d) the Chief Officer (ambulance service);
- e) the Chief Officer (fire brigade);
- f) the Chief Officer (rural fire services);
- g) the Chief Officer (SES);
- h) the Chief Health Officer; and
- i) the Senior Director, Security and Emergency Management Branch (SEMB) JACS.

2.12 Consideration of issues by SEMSOG replaces the Final Agency Comments stage in the circulation of Cabinet papers for SEMC

2.13 SEMSOG is itself supported by the Security and Emergency Management Planning Group (SEMPG) comprising all ACT Government agencies and ACT Policing. Consideration of issues by SEMPG replaces a formal exposure draft circulation of Cabinet papers for SEMC.

2.14 In addition to the usual Cabinet-in-Confidence classification, all papers for consideration by SEMC are classified at least PROTECTED and must be marked and handled accordingly. Papers for SEMC may, on occasion, carry higher national security classifications.

2.15 All officials present at SEMC, SEMSOG and SEMPG meetings must hold a national security clearance to at least SECRET.

2.16 The Cabinet would provide strategic leadership to the ACT Government's response to a major incident requiring whole-of-government coordination. In this role, it would be supported by advice from SEMSOG and the Territory Controller (if one has been appointed under the *Emergencies Act 2004*).

MINISTERIAL ADVISORY COMMITTEE

2.17 The Ministerial Advisory Committee (MAC) provides high level strategic advice on whole-of-government issues and priorities including major policy initiatives, and planning and urban development.

2.18 MAC comprises all ministers and their chiefs of staff and chief executives of all ACT Government Agencies including the ACT Planning and Land Authority, the Land Development Agency and the Canberra Institute of Technology.

COMMUNITY INCLUSION COMMITTEE

2.19 The Community Inclusion Committee (CIC) meets as required to consider focussed reviews of the Government's progress in meeting community inclusion goals and actions that are articulated in the *Canberra Social Plan*.

2.20 CIC comprises all ministers.

CABINET IN THE COMMUNITY

2.21 Cabinet in the Community meetings are held throughout the year at venues and times determined by the Chief Minister. They provide an opportunity for members of the public to discuss issues of concern to them with ministers and senior officials.

SECRETARY TO CABINET

2.22 The Chief Executive of CMD serves as Secretary to Cabinet. The Secretary to Cabinet attends all Cabinet and Committee meetings, signs Cabinet Decisions and advises the Chief Minister on Cabinet procedures. The Deputy Chief Executive, Policy in CMD is Deputy Secretary to Cabinet.

2.23 The Deputy Secretary to Cabinet routinely attends MAC Meetings.

CABINET NOTETAKER

2.24 The Director, Cabinet and Intergovernmental Relations in CMD serves as Cabinet Notetaker. The Cabinet Notetaker attends all Cabinet and Committee meetings and takes notes necessary to support the preparation of Cabinet Decisions.

2.25 The Cabinet Notetaker may be assisted by one other official with the approval of the Chief Minister.

POLICY DIVISION, CHIEF MINISTER'S DEPARTMENT

2.26 CMD's Policy Division supports the Chief Minister and Cabinet through the provision of coordinated policy advice. The functions of the Division include consulting with agencies (including departments) on the policy content and across-government implications of proposed Submissions, providing advice to the Chief Minister on each Submission considered by Cabinet, monitoring and providing advice on the implementation of Government policies and initiatives, and providing advice on the Government's forward policy agenda.

2.27 Agencies should consult Policy Division as early as possible in the development of proposed Submissions.

THE CABINET SECRETARIAT

2.28 The Cabinet Secretariat in CMD:

- a) provides administrative support to the Chief Minister and Cabinet;
- b) assists the Chief Minister and the Secretary to Cabinet to manage Cabinet's forward agenda;
- c) provides advice and training to officials on Cabinet processes;
- d) maintains the archive of ACT Cabinet papers;
- e) manages the release of Cabinet papers under the *Executive Documents Release Act 2001*;
- f) monitors and enforces compliance with the *Cabinet Handbook* and the *Cabinet Paper Drafting Guide*; and
- g) coordinates the Cabinet Liaison Officer (CLO) Network.

CABINET LIAISON OFFICERS

2.29 Agency chief executives nominate officers to serve as their agency's CLOs who:

- a) provide a central contact point between the agency, the Cabinet Secretariat and other agencies on Cabinet business;
- b) co-ordinate Cabinet business for their agency;
- c) provide the Cabinet Secretariat with forecasts of Cabinet business for their agency;
- d) ensure procedures set out in the *Cabinet Handbook* and the *Cabinet Paper Drafting Guide* are followed in their agency;
- e) monitor the timely implementation of Cabinet decisions in their agency; and
- f) under the direction of chief executives, are accountable for managing and recording appropriate access to, and storage of, Cabinet papers for their agency.

3. CABINET BUSINESS

3.1 Cabinet papers fall into four categories and are prepared on one of three templates.

Paper	Reasons Include	Timeframe	Forum	Template
<p>Cabinet Submission</p> <p>from ministers</p>	<p>agree a course of action</p> <p>setting policy</p> <p>first pass approval for legislation</p> <p>negotiating positions for, and agreement to, Intergovernmental Agreements (IGAs)</p> <p>Government position on a Private Members Bill</p>	<ul style="list-style-type: none"> exposure draft must be circulated at least once to all agencies for not less than five working days final Submission first lodged (for final agency comments) with the Cabinet Secretariat not less than ten working days before Cabinet consideration is forecast final lodged with the Cabinet Secretariat not less than five working days before Cabinet consideration is forecast 	<p>Cabinet</p> <p>Budget</p> <p>SEMC</p> <p>MAC</p> <p>CIC</p>	<p>Submission</p>
<p>Appointments</p> <p>from ministers</p>	<p>endorse appointments to statutory offices, boards or committees</p>	<ul style="list-style-type: none"> final lodged with the Cabinet Secretariat not less than five working days before Cabinet consideration is forecast 	<p>Cabinet</p>	<p>Appointment</p>
<p>Assembly Business</p> <p>from ministers</p>	<p>approve Ministerial Statements</p> <p>second pass approval for legislation</p>	<ul style="list-style-type: none"> second pass legislation: first lodged (for final agency comments) with the Cabinet Secretariat not less than ten working days before Cabinet consideration is forecast Statements not requiring final agency comments lodged not less than five working days before Cabinet consideration is forecast 	<p>Cabinet</p>	<p>Information Paper</p>
<p>Information Paper</p> <p>from ministers or chief executives</p>	<p>provide information</p> <p>correct lodged papers</p> <p>update lodged papers</p>	<ul style="list-style-type: none"> exposure draft circulated at least once to agencies for not less than five working days final Information Paper first lodged (for final agency comments) with the Cabinet Secretariat not less than ten working days before Cabinet consideration is forecast final lodged with the Cabinet Secretariat not less than five working days before Cabinet consideration is forecast out of session Information Papers circulated by agreement of Chief Minister 	<p>Cabinet</p> <p>Budget</p> <p>SEMC</p> <p>MAC</p> <p>CIC</p> <p>Out of Session</p>	<p>Information Paper</p>

3.2 Matters for consideration by Cabinet are most often brought forward in papers sponsored by ministers. Ministers are responsible for the proposals they bring forward notwithstanding that drafting may have been undertaken largely by officials. Ministers similarly take carriage in the Cabinet Room of Information Papers prepared by chief executives.

3.3 The highest priority must be given by ministers and officials to Cabinet business and its timely development. This includes allowing ministers sufficient time to consider, and receive briefing on, proposals for consideration.

3.4 Cabinet's deliberations focus on significant issues that are the collective responsibility of the ACT Government, many of which involve whole-of-government coordination. Cabinet should not deal with routine matters that can properly be handled by individual ministers within their portfolio responsibilities, or that might be addressed in correspondence.

3.5 The table below provides guidance on matters that require Cabinet consideration by way of Cabinet Submissions or Information Papers. Advice on whether or not a particular item should go to Cabinet should, if necessary, be sought from the Director, Cabinet and Intergovernmental Relations.

Cabinet Submissions	
policy	new policy or changes to existing policies
cross-portfolio	proposals with cross-portfolio implications or whole-of-government impacts
employment	proposals with a significant impact on employment
controversial	matters likely to require consultation or attract significant public interest
budget	any proposal with an impact on the budget
legislation	first pass policy approval to prepare legislation; government position on a Private Member's Bill, government amendments to bills before the Assembly
regulations	where they are sensitive or have whole-of-government or cross-portfolio implications
inquiries	proposed references, submissions or responses to: <ul style="list-style-type: none"> • Legislative Assembly Committees • Committees of the Commonwealth Parliament • ACT Government Inquiries • other inquiries
Auditor-General	responses to reports
intergovernmental agreements	all proposed inter-governmental agreements, contracts, or memorandums of understanding
Information Paper	
emerging issues	issues for Cabinet consideration later but not yet requiring a decision
progress reports	reports requested by Cabinet on progress of certain matters
portfolio matters	to inform Cabinet of action to be taken within ministerial authority
other information	matters for Cabinet to note

INTERGOVERNMENTAL AGREEMENTS

3.6 Cabinet consideration of proposed intergovernmental agreements, however described, is crucial to ensuring alignment of policy direction and effort, as well as maintaining Budget discipline. The following procedures must be followed for intergovernmental agreements including:

- a) National Agreements and National Partnerships (NPs) being considered by the Council of Australian Governments (COAG);
- b) implementation plans for National Agreements and NPs;
- c) bilateral agreements with another jurisdiction;
- d) bids for funding under Commonwealth programs;
- e) memorandums of understanding addressing procedural or policy matters; and
- f) contracts for service delivery.

3.7 An initial Submission must be brought forward by the responsible minister (the First Pass Submission) outlining the scope of the proposed agreement, and seeking agreement to the ACT Government's negotiating position. Where relevant, that First Pass Submission should also canvass the indicative scope of any ACT Government bid for funding.

3.8 Based on Cabinet's decision on the First Pass Submission, ministers and officials have a clear mandate within which they can negotiate the draft agreement. In the event the boundaries of Cabinet's authority are reached, or further guidance is required, further Submissions should be brought forward.

3.9 Once a draft agreement has been settled, the responsible minister must bring forward a second Submission seeking final agreement to any policy, financial or service delivery impacts, as well as seeking approval to sign the final agreement. This Second Pass Submission should also, as relevant, address in detail the final ACT Government funding bid, or implementation plan.

3.10 This two pass approval process for intergovernmental agreements may necessitate Submissions being circulated and considered at short notice given the unfolding nature of negotiations and the timing of ministerial council meetings (including COAG).

3.11 The Chief Minister would ordinarily sign National Agreements or NPs for the ACT.

AGENDA

3.12 The Chief Minister settles the Agenda for each Cabinet and Committee meeting on advice from the Cabinet Secretariat. Any items not lodged on time for a particular meeting will not normally be considered for listing.

ADMINISTRATIVE ARRANGEMENTS

3.13 The determination and making of the Administrative Arrangements are matters solely for the Chief Minister. Submissions should not propose allocation or reallocation of agency responsibilities or functions. Should a minister wish to raise such a suggestion, they should write to the Chief Minister.

CONSIDERATION BY CORRESPONDENCE OR OUT OF SESSION

3.14 To ensure Cabinet's deliberations are focussed on major issues requiring discussion, ministers should consider settling minor matters by correspondence, particularly where it is likely that all interested ministers are in agreement.

3.15 The Chief Minister may authorise the circulation of Information Papers for consideration by Cabinet out of session. This would most often occur in circumstances where the material canvassed is uncontroversial and responds to a request by the Cabinet. Information papers for out of session consideration must be circulated as exposure drafts and first lodged with the Cabinet Secretariat in accordance with the usual timeframes and processes. CLOs should advise the Cabinet Secretariat if ministers propose certain Information Papers be considered out of session.

3.16 Out of session Information papers are provided to ministers by the Cabinet Secretariat.

3.17 Instead of the final Information Paper being listed for consideration and included in ministers' Cabinet folders, only the draft Cabinet Decision is included in the folders approximately two weeks after the Information Paper is circulated.

MEETING ATTENDANCE

3.18 Ministers are expected to attend all Cabinet meetings. Where necessary, (including, for example, where they have unavoidable Legislative Assembly or ministerial council commitments), ministers should seek leave from the Chief Minister.

3.19 Officials other than the Secretary to Cabinet, the Cabinet Notetaker or members of Cabinet Committees do not attend Cabinet meetings without the prior written agreement of the Chief Minister in exceptional circumstances where Cabinet is to consider particularly complex technical items. Ministers should write to the Chief Minister seeking agreement to the attendance of officials (at Director level and above) well in advance of Cabinet's scheduled discussion of the relevant item.

3.20 Unless officials are members of Cabinet Committees, they attend Cabinet only to explain factual or technical material, and do not otherwise participate in discussion. In this case, if their minister leaves the Cabinet Room during the discussion, officials should also withdraw.

3.21 Officials or ministerial staff do not represent ministers in Cabinet or Committee meetings.

3.22 Officials and ministerial staff present at Cabinet or Committee meetings must respect the absolute confidentiality of Cabinet's deliberations.

DECLARATION OF INTERESTS

3.23 Ministers must declare any private pecuniary or other interests held by themselves or members of their immediate families in matters under discussion in Cabinet and Committee meetings.

3.24 Officials and ministerial staff attending Cabinet and Committee meetings must make similar declarations.

3.25 When considering whether there is a potential or apparent conflict of interest that should be declared, ministers and officials should adopt a broad interpretation. Declarations should be made in all cases where an interest exists which could not be said to be shared with the rest of the community.

3.26 Any such declarations will be recorded by the Cabinet Notetaker in the Cabinet Notebook. Cabinet may excuse a minister or official from the discussion or agree explicitly to their taking part.

LODGEMENT OF CABINET PAPERS

3.27 The Cabinet Secretariat provides ministers with their Cabinet papers four working days before each meeting. This timeline ensures ministers are able to consider the papers and receive briefing from their offices and agencies (including departments) before taking decisions.

3.28 Final Cabinet papers must be lodged with the Cabinet Secretariat no later than noon, five working days prior to the meeting at which the matter is forecast to be discussed.

3.29 The Cabinet Secretariat reviews lodged papers for compliance with the *Cabinet Handbook* and the *Cabinet Paper Drafting Guide*, and will reject papers that do not comply with those requirements. Officials drafting Cabinet papers are strongly encouraged to seek guidance from their agency's CLO and the Cabinet Secretariat before papers are provided to ministers for approval.

3.30 Late lodgement of Cabinet papers reduces the time ministers have to consider the issues before them and creates a risk of poor decision making. Late lodgement of final papers can only occur with the prior written agreement of the Chief Minister in exceptional circumstances. Ministers seeking to lodge late papers must write to the Chief Minister with letters copied to Director, Cabinet and Intergovernmental Relations.

3.31 Similarly, the tabling of papers 'under the line' in the Cabinet Room by ministers must be agreed to in writing in advance by the Chief Minister with letters copied to the Director, Cabinet and Intergovernmental Relations. Approval to table papers will only be given for the most urgent and unavoidable matters.

4. DEVELOPING CABINET PAPERS

4.1 Cabinet Papers must present robust and comprehensive analysis of the issues for consideration, and include balanced arguments for and against the course of action or options being proposed. It is critical that appropriate consultation occur among ACT Government Agencies (including departments) to ensure the Cabinet is provided with the best possible basis for its decision making.

4.2 It is similarly crucial that papers are lodged on time to allow ministers time to consider them, and to receive briefing from their offices and agencies before Cabinet meets.

CONSULTATION

4.3 Thorough and genuine consultation is crucial to the successful development of rigorous, accurate and comprehensive Cabinet papers. Consultation also ensures that differences are resolved in advance of Cabinet consideration, or are clearly identified and set out in a way that assists sound decision making.

4.4 All agencies with an interest in a proposal being prepared for Cabinet must be given ample opportunity to contribute to its development. Agencies should allow time for consultation throughout the process of developing exposure drafts of Cabinet papers for circulation. This minimises the potential for major disagreements or surprises at the exposure draft or first lodgement stages.

4.5 Agencies must consult CMD and Treasury in the development of all Submissions, Information Papers and Assembly Business Papers seeking second pass approval for legislation. As central agencies, CMD and Treasury have a particular role in facilitating the development of comprehensive and coherent whole-of-government policy advice. Agency CLOs can provide guidance on relevant agency contacts.

4.6 Properly conducted community consultations demonstrate the transparency and accountability of government processes and help to build a cooperative and responsive relationship between the Government and the community. Cabinet should be informed of stakeholder views and likely community reaction to policy proposals.

4.7 In consulting bodies or individuals outside the ACT Government, however, particular regard must be paid to maintaining Cabinet confidentiality. While issues and options should be canvassed and feedback sought, Cabinet papers must not be shared. Such consultations with the community should not occur without Cabinet or ministerial endorsement of the scope and timing. More information on community engagement approaches is available from the ACT Government Community Engagement website and manual at <http://www.communityengagement.act.gov.au>

FINANCIAL IMPLICATIONS

4.8 Submissions must clearly state the Budget impact of the recommendations for the current Financial Year and each of the subsequent four Financial Years.

4.9 Treasury's agreement must be obtained to the costings of proposals before a Submission can be first lodged with the Cabinet Secretariat. This agreement assures Cabinet that the stated Budget impact of a proposal has been verified. It does not include agreement to the policy itself.

4.10 Agencies must allow sufficient time for Treasury to assess the impact of proposals, and should commence discussions as early as possible in the drafting process. Agencies and Treasury should be mindful of the required lodgement timeline for Cabinet consideration in settling costings.

4.11 Proposals that involve a commitment of additional funding should not be brought forward outside the Budget context unless there is an urgent and compelling case for earlier consideration. In such circumstances, the responsible minister must seek the prior agreement of the Chief Minister, in writing, to the matter coming forward.

4.12 Proposals not supported in a previous Budget round should not be brought forward for reconsideration outside the Budget process. If a minister believes that there is an urgent and compelling case for reconsideration, the Submission must clearly identify that it was not supported in a previous Budget, and spell out the case for reconsideration. The minister must seek the prior agreement of the Chief Minister, in writing, to the matter being reconsidered.

4.13 Proposals that do not identify a source of funding, but state that the funding will be sought through a future Budget proposal will not be accepted.

TREASURER'S ADVANCE AND ACT OF GRACE AUTHORISATIONS

4.14 Cabinet Submissions should not recommend funds be made available from the Treasurer's Advance or authorised as Act of Grace payments. Such decisions are a matter for the Treasurer.

5. CABINET DECISIONS

5.1 The Cabinet Notetaker takes notes of Cabinet's deliberations during discussions in a Cabinet Notebook. These notes are not a verbatim record of discussions and are used solely for the purpose of supporting the preparation of Cabinet Decisions.

5.2 Cabinet Decisions are circulated to ministers and the chief executives of those agencies (including departments) that provided final agency comments, within twenty-four hours of the Cabinet meeting.

5.3 If a minister is concerned about the accuracy of a Cabinet Decision, this should be drawn to the attention of the Chief Minister or the Secretary to Cabinet as soon as possible. Any amendments agreed by the Chief Minister are brought to the attention of Cabinet in an Amended Cabinet Decision.

5.4 Cabinet Decisions should generally not be quoted except where necessary for accuracy in internal Cabinet-in-Confidence government documents. Special arrangements relating to the Cabinet papers of previous governments are set out at Chapter 7 of the *Cabinet Handbook*.

IMPLEMENTATION

5.5 Ministers are responsible for ensuring that appropriate action is taken on Cabinet Decisions affecting their portfolios.

5.6 If a Cabinet Decision requires action in several portfolios, and Cabinet does not direct otherwise, the minister who raised the matter in Cabinet is responsible for initiating follow-up procedures (usually by letter to other ministers involved in implementing the decision).

5.7 CMD monitors progress on the implementation of decisions and regular reports are provided to Cabinet by the Chief Minister for information and action as necessary.

5.8 Where a proposal addresses a key strategic priority for the Government, is high risk or otherwise significant, Cabinet can decide to formally monitor progress as part of an ongoing cycle of implementation reporting. Ministers may choose to recommend this course of action where they consider a particular proposal warrants it.

5.9 Whether or not a proposal might be formally monitored should be assessed as part of agencies' consultation with CMD's Policy Division early in the drafting process.

ANNOUNCEMENTS

5.10 Cabinet will often consider a public announcement strategy for decisions at the time they are made. Where this does not occur, ministers' offices should liaise with the Chief Minister's Office on the content and timing of any announcements.

5.11 Where certain actions need to be taken before a decision can be implemented or announced, it is the responsibility of the minister who raised the matter to see that this occurs before an announcement is made.

6. SECURITY AND HANDLING OF CABINET PAPERS

6.1 Special arrangements apply in relation to the handling and security of Cabinet papers. Cabinet papers should only be circulated to officials with a genuine need to know their content. This would normally include officers directly involved in providing comments on drafts, or in implementing a particular decision. An individual's position or level of security clearance does not, of itself, give rise to a genuine need to know.

6.2 Cabinet papers include:

- a) Cabinet and Committee Agendas;
- b) all documents considered by Cabinet, or brought into existence for the purpose of being considered by Cabinet, including:
 - (i) Submissions;
 - (ii) Assembly Business Papers;
 - (iii) Appointment Papers;
 - (iv) Information Papers; and
 - (v) Updates and Corrections; and
- c) Cabinet Decisions.

6.3 Any other document the release of which would disclose the deliberations of Cabinet must be similarly protected. Such documents include:

- a) Cabinet Notebooks;
- b) draft Cabinet papers;
- c) briefings prepared for ministers for use in Cabinet;
- d) agency comments on draft Cabinet papers;
- e) reports or studies prepared within or for the ACT Government forming part of the context or background to a Cabinet Decision; and
- f) correspondence between ministers or agencies that refers to matters that have been, or might be, considered by the Cabinet.

STATUS AND CUSTODY

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

6.5 Cabinet papers are the property of the ACT, not of individual ministers or agencies. They are held on behalf of the ACT by the Cabinet Secretariat.

UNAUTHORISED DISCLOSURE

6.6 Any unauthorised disclosure of Cabinet papers or details of Cabinet's deliberations breaches Cabinet confidentiality. This compromises the integrity of the Cabinet system, and may lead to ministers limiting the candour of their discussions in the Cabinet Room.

6.7 Under section 153 of the *Crimes Act 1900*, it is a criminal offence for an official to disclose, without lawful authority, any information which comes into their possession by virtue of their being an officer of the ACT. Officials are additionally under a duty not to disclose, without lawful authority, any information acquired in the course of their employment under section 9 of the *Public Sector Management Act 1994*.

SECURITY CLASSIFICATION

6.8 All Cabinet papers are classified Cabinet-in-Confidence and must be handled and stored accordingly. Any document containing specific reference to Cabinet's deliberations (including ministerial briefings or correspondence that paraphrase Cabinet Decisions or canvass matters raised, or to be raised, in Cabinet) must be marked Cabinet-in-Confidence and handled and stored appropriately.

6.9 Particularly sensitive Cabinet papers may be given the additional security classifications of PROTECTED or HIGHLY PROTECTED in accordance with the *ACT Protective Security Policy and Guidelines*. In such cases, documents are to be marked and handled in accordance with the requirements of those guidelines in addition to the procedures set out in this *Cabinet Handbook*.

6.10 In rare cases, Cabinet papers for SEMC may carry national security classifications. Any material that is classified in this way must be dealt with in accordance with the Commonwealth *Protective Security Manual* in addition to the procedures set out in this *Cabinet Handbook*.

6.11 Security classifications must appear at the top and bottom of every page of a Cabinet paper, including attachments. Further advice on the appropriate handling and storage of classified material can be obtained from Agency Security Advisers in each agency, or from the Security and Emergency Management Branch in JACS.

6.12 The agreement of the Cabinet Secretariat is required to the application of classifications above Cabinet-in-Confidence to any Cabinet paper (apart from those to which it is routinely applied). Any such requests should be made to the Director, Cabinet and Intergovernmental Relations.

COPYING AND DISTRIBUTION

6.13 Cabinet Decisions must not be copied outside the Cabinet Secretariat.

6.14 Cabinet Liaison Officers (CLOs) have standing permission to print Cabinet papers from the secure document exchange maintained by the Cabinet Secretariat (or copy documents delivered to them in hard copy) for the purposes of facilitating consultation, the preparation of final agency comments, and ministerial briefings. The

secure document exchange is the preferred method for circulating drafts of Cabinet papers between agencies.

6.15 Hard copies of Cabinet papers must be passed by hand and signed for at each receipt. Cabinet papers must not be left on desks or in in-trays. A written record must be kept of all access to each Cabinet paper, and provided to the Cabinet Secretariat on request.

6.16 Hard copies of Cabinet papers moving between agencies should be passed in double envelopes, with the inside envelope bearing appropriate security classification and wafer seals, and the outer envelope unmarked apart from the addressee's details.

6.17 Once Cabinet papers are agreed by the responsible minister, they are lodged with the Cabinet Secretariat for copying, security watermarking and distribution to ministers and affected agencies. Each copy of a final Cabinet paper bears a unique watermark identifying the person accountable for the document.

6.18 Copies of Cabinet Papers made by CLOs for internal distribution should be similarly watermarked. Guidance on watermarking and record keeping can be obtained from the Cabinet Secretariat.

6.19 Papers on any of the three Cabinet templates, including drafts must only be circulated electronically on the secure document exchange (to which only agency CLOs have access). Drafting comments and final agency comments should be transmitted in the same way.

ACCOUNTABILITY

6.20 Ministers are responsible for the security of their Cabinet papers once they are received from the Cabinet Secretariat. Ministerial staff to whom Cabinet papers are issued have similar responsibilities, With this in mind, ministers should:

- a) arrange for a person in their office to be the custodian of Cabinet papers;
- b) ensure appropriate security arrangements are put in place for the storage and handling of Cabinet papers; and
- c) ensure that Cabinet papers that are no longer needed are returned to the Cabinet Secretariat for recording and destruction.

6.21 Ministers must ensure that all Cabinet papers issued to them or their office are returned to the Cabinet Secretariat on their ceasing to be a minister.

6.22 Cabinet papers circulated to agencies are received by CLOs on behalf of the chief executive. On receipt of Cabinet papers by an agency, chief executives assume responsibility for their security.

6.23 Chief executives must ensure that:

- a) Cabinet papers are held securely;
- b) records are maintained of all officers given access to each document; and
- c) Cabinet papers no longer needed are destroyed (and their destruction is reported to the Cabinet Secretariat).

6.24 Document security and handling requirements apply equally to electronic versions of Cabinet papers. All electronic versions of Cabinet papers, including drafts, should be deleted from agency drives once they have been considered by Cabinet. For the limited period that electronic draft Cabinet papers are retained, they must be stored in separate directories with restricted access.

DESTRUCTION

6.25 When Cabinet papers are no longer required they should be returned to CLOs for destruction. CLOs must report on the approved template to the Cabinet Secretariat on papers destroyed.

6.26 Cabinet papers must be shredded using a B-class cross-cut shredder or placed in commercial confidential waste bins for destruction.

6.27 The Cabinet Secretariat retains a full set of all Cabinet papers. Where a copy of Cabinet papers that have been destroyed is required, a replacement copy can be requested from the Director, Cabinet and Intergovernmental Relations.

7. ACCESS TO CABINET PAPERS

7.1 Access to Cabinet papers is granted on a strict need to know basis. Chief executives or their nominated representative (usually the Cabinet Liaison Officer) should identify officers within their agencies (including departments) to whom access to particular Cabinet papers will be limited.

PUBLIC ACCESS UNDER LEGISLATION

7.2 There are three ACT laws that create rights of access to Cabinet papers: the *Freedom of Information Act 1989*; the *Executive Documents Release Act 2001*; and the *Territory Records Act 2002*.

7.3 Freedom of Information (FOI) Officers in each agency can provide further information on access procedures and requirements under the Freedom of Information Act. The Director, Cabinet and Intergovernmental Relations should be consulted on all FOI requests involving Cabinet papers or other documents that would disclose the deliberations of Cabinet.

7.4 The Executive Documents Release Act provides for the public release of Cabinet papers ten years after they have been considered by Cabinet. The list of accessible Executive Documents required by the Act is produced by the Cabinet Secretariat and updated on 1 July each year. Requests for access to Cabinet papers under the Executive Documents Release Act are coordinated by the Cabinet Secretariat.

7.5 The Territory Records Act creates a general right of access to agency records, including documents of the ACT Executive, after twenty years.

ACCESS BY THE AUDITOR-GENERAL

7.6 Under the *Auditor-General Act 1996*, the Auditor-General is entitled to access Cabinet papers for the purposes of investigating a particular term of reference. All requests for such access should be directed to the Secretary to Cabinet.

7.7 Any copies of Cabinet papers provided to the Auditor-General will be prepared by the Cabinet Secretariat, and must not be copied further. Such copies must be returned to the Cabinet Secretariat for destruction on completion of the investigation.

ACCESS BY COURTS, INVESTIGATORY BODIES OR POLICE

7.8 Requests for access to Cabinet papers by a court or a Board of Inquiry under the *Inquiries Act 1991*, the Australian Federal Police, the ACT Administrative Appeals Tribunal, or any other investigatory body must be referred to the Director, Cabinet and Intergovernmental Relations.

7.9 Where it is decided that a request for access should be granted, this will be facilitated by the Cabinet Secretariat.

7.10 Access by the Australian Federal Police to Cabinet papers of relevance to ACT Policing is at the discretion of the Secretary to Cabinet. Such access is facilitated by the Cabinet Secretariat.

CLAIMS OF IMMUNITY FOR CABINET PAPERS

7.11 The Secretary to Cabinet must be consulted if consideration is being given to claiming public interest immunity in respect of Cabinet papers before a court, tribunal or the Assembly. Claims of immunity in respect of Cabinet papers should be made only by a minister – normally sponsoring minister – in consultation with the Chief Minister, or by the Secretary to Cabinet in cases involving Cabinet papers of former Governments.

ACCESS TO CABINET PAPERS OF PREVIOUS GOVERNMENTS

7.12 Cabinet papers are, by convention, confidential to the Government that creates them. This convention is, however, overridden by statutory rights of access outlined above. Requests for access to the Cabinet papers of a previous Government outside those statutory schemes must be referred to the Director, Cabinet and Intergovernmental Relations.

7.13 Before each Assembly election, agencies should ensure that all Cabinet papers held by them are accounted for so that access can be controlled appropriately. If the government is returned, the documents can be made available again in accordance with normal practice. If there is a change of government, all Cabinet papers of the previous government must be destroyed.

7.14 Continuity of administration may necessitate reference to Cabinet papers of former governments. Agencies may therefore provide ministers with summaries of facts and operative decisions necessary for an understanding of current issues.

ACCESS BY FORMER MINISTERS

7.15 By convention former ministers are entitled to special access to refresh their memories of Cabinet and related documents with which they dealt personally while in office. Former ministers should approach the Secretary to Cabinet if they wish to seek special access to documents under this convention. The categories of records to which access may be granted include:

- a) all Cabinet material which the former minister had personally dealt with or seen or could reasonably be presumed to have personally dealt with or seen in the course of their official duties;
- b) correspondence sent to or received from the former minister which was personally dealt with or seen by the former minister, or which could reasonably be presumed to have been personally dealt with or seen by the former minister in the course of his or her official duties; and
- c) briefs and other deliberative documents which the former minister had personally dealt with or had seen or which could reasonably be presumed to have been personally dealt with or seen by the former minister in the course of his or her official duties.

ACCESS DURING THE CARETAKER PERIOD

7.16 Access to Cabinet papers outside the statutory schemes outlined above will not normally be granted during the caretaker period except in exceptional circumstances with the approval of the Secretary to Cabinet.

8. KEY CONTACTS IN THE CHIEF MINISTER'S DEPARTMENT

Secretary to Cabinet	Mr Andrew Cappie-Wood	6205 0246
Deputy Chief Executive Policy Division	Ms Pam Davoren	6207 6136
Director, Cabinet and Intergovernmental Relations	Mr Andrew Kefford	6205 0230
Manager Cabinet Secretariat	Mr Chris Ambler	6207 5989
Cabinet Secretariat CLO	Mr Jacob Collins	6207 0148
CMD CLO	Ms Priyanthi Dasanayaka	6205 0456
Assistant CLO	Ms Tracey Elliott	6205 0232