

# National Cabinet Terms of Reference

1. National Cabinet comprises the Prime Minister (Chair), the State Premiers and the Territory Chief Ministers.
2. National Cabinet is underpinned by a commitment to genuine partnership between the Commonwealth and States and Territories on issues of national significance.
3. National Cabinet does not derogate from the sovereign authority and powers of the Commonwealth or any State or Territory. The Commonwealth and the States and Territories, as appropriate, remain responsible for implementing outcomes agreed by the National Cabinet.
4. National Cabinet is primarily supported by the First Secretaries Group. National Cabinet may task this group with work to support development and implementation of national priorities, including high priority cross-portfolio issues.
5. The Commonwealth-State Relations Branch, in the Commonwealth Department of Prime Minister and Cabinet is the National Cabinet Secretariat.

## Meeting Arrangements

6. National Cabinet will meet at least four times per year or as necessary, via a mixture of virtual and face-to-face meetings.
7. The National Cabinet meeting schedule is determined by agreement between Members.
8. National Cabinet will invite the Australian Local Government Association to one meeting of National Cabinet a year.
9. Expert advisers may be invited to inform National Cabinet deliberations as appropriate and with the agreement of the Chair.
10. Members, when absent, may be represented in National Cabinet meetings only by other Ministers formally acting in their position and with the approval of the Chair and relevant Member.
11. First Ministers may be accompanied by their First Secretary at any National Cabinet meeting.

## Agendas

12. Meeting agendas will be set collaboratively and with meaningful input from First Ministers, supported by the First Secretaries Group.
13. Agendas will focus on items requiring substantive discussion and decisions from First Ministers and should be circulated five days in advance of meetings.
14. Agendas will include a standing item for discussion of State and Territory priorities, led by the Chair of the Council for the Australian Federation (CAF).

## Priorities of National Cabinet and Ministerial Councils

15. The priorities of National Cabinet will be developed collaboratively and agreed to by First Ministers.
16. National Cabinet may task Ministerial Councils, the First Secretaries Group or other experts to progress priorities. Regular reports on these priorities will be provided to National Cabinet.
17. The Council on Federal Financial Relations (CFFR) reports to the National Cabinet. Amongst other matters, it is responsible for overseeing the financial relationship between the Commonwealth and State and Territory Governments.
18. Ministerial Councils reflected in the [federal relations architecture](#) will provide reports annually to National Cabinet. Further guidance on the annual reporting process will be provided by the National Cabinet Secretariat each year.
19. Should a Ministerial Council wish to propose an item for National Cabinet consideration, the Chair of the Ministerial Council should write to the Chair of National Cabinet.

## National Cabinet Papers

20. Items seeking the agreement of National Cabinet should be covered by a National Cabinet paper.
21. Papers and presentations can be drafted by the Commonwealth or State and Territory governments, or by other experts or advisory groups where requested by National Cabinet.
22. Where possible, papers and presentations will be circulated by the National Cabinet Secretariat to Members three business days before a meeting of National Cabinet.

## Decisions and Record of Meeting

23. Where appropriate, decisions should be principles-based and allow individual jurisdictions flexibility to determine the best way to achieve any agreed outcomes. Consensus decision-making is preferred.
24. Agreed meeting outcomes may include, but are not limited to, policy announcements, future tasking and agreed public messaging.

25. Issues that are raised by a Member of National Cabinet, but not formally agreed for follow up action or noting, will not be recorded as a decision of National Cabinet.
26. A media statement summarising the outcomes from the National Cabinet meeting will be agreed by all Members, and released following each meeting. The media statement constitutes the public record of agreed outcomes of the National Cabinet meeting.
27. All meeting outcomes will be recorded in a Record of Meeting, prepared by notetakers and circulated within a week of the meeting.
28. Notetakers will be two senior officials from the Department of the Prime Minister and Cabinet, and one senior official nominated by the Chair of CAF.
29. Where a jurisdiction would like to raise an issue or suggest an amendment to the Record of Meeting, it should contact the Commonwealth and state notetakers for clarification. If further action is required, it can be raised at the First Secretaries Group for resolution.

### **Out-of-Session process**

30. The Out-of-Session (OOS) process should be used where the urgency of the item requires it to be finalised ahead of the next scheduled meeting, or where the item does not require extensive discussion.
31. The National Cabinet Secretariat will coordinate OOS packages and will circulate to First Ministers via the First Secretaries Group.
32. First Ministers will be provided at least three days to consider and respond/vote on OOS packages.
33. The National Cabinet Secretariat will circulate the outcome of the OOS item to the First Secretaries Group. In the event that a unanimous decision is not reached the item will be discussed at the next National Cabinet meeting.

### **National Cabinet confidentiality and handling of National Cabinet documents**

34. Discussions and documents of National Cabinet are considered confidential and should be classified as Official: Sensitive in the Commonwealth classification system unless a higher classification is required.
35. Protection of confidentiality ensures proper functioning of National Cabinet and ensures that First Ministers may exchange differing views and achieve outcomes together.
36. The National Cabinet will agree collectively on the release of any documents, noting that it may be contrary to the public interest for some information to be released.
37. National Cabinet documents will be subject to different information management laws in each jurisdiction.

38. The Commonwealth Department of the Prime Minister and Cabinet will consult with relevant jurisdictions on all requests for access to National Cabinet documents sought under the *Commonwealth Freedom of Information Act 1982* (the Commonwealth FOI Act). Exemptions under the Commonwealth FOI Act may be applied on a case by case basis.
39. Similarly, the States and Territories will also consult with relevant jurisdictions, including the Commonwealth, on all access applications for National Cabinet documents sought under their respective access to information regimes.

### **Caretaker Conventions**

40. National Cabinet continues to meet through caretaker periods for State and Territories. The Premiers or Chief Ministers of a jurisdiction operating under caretaker arrangements should continue to attend National Cabinet meetings, with their participation informed by the relevant jurisdiction's caretaker conventions.
41. National Cabinet may meet in the Commonwealth caretaker period if this is necessary for the continuance of the normal business of government, but the range of matters considered is constrained by the Commonwealth's caretaker conventions.