

Guidelines for Victorian Government Submissions and Responses to Inquiries

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About the Guidelines

1. These Guidelines set out the requirements for **government bodies** preparing a written Victorian Government **submission** or **response** to an **inquiry** or **review**. These Guidelines replace the *Guidelines for Submissions and Responses to Inquiries* issued in October 2002.
2. These Guidelines are intended to ensure that:
 - submissions and responses are only prepared where required by legislation (see paragraph 16) or where they would be of strategic value to the Victorian Government;
 - all submissions and responses are effectively coordinated and accurately reflect Victorian Government policy; and
 - appropriate approval is obtained for all submissions and responses.
3. Separate guidelines exist for Victorian Government officials appearing before a parliamentary inquiry. These deal with appearing before parliamentary committees and the provision of written material based on oral evidence, and are available on the DPC website. For information on appearing before a parliamentary committee, please contact the Office of the General Counsel, DPC.

Scope

4. For the purpose of these Guidelines, a **government body** is a Victorian Government public service body, or a public entity that is explicitly subject to ministerial direction or control. Whether a public entity is explicitly subject to ministerial direction or control is usually indicated in the documents creating an entity (e.g. its establishing legislation, or relevant Governor in Council documents). For the purpose of these Guidelines, a government body *does not* include exempt bodies and special bodies (except Victoria Police), such as the Victorian Auditor-General's Office, Independent Broad-based Anti-corruption Commission and Victorian Ombudsman.¹ For the purpose of these Guidelines, Victoria Police *is considered* a government body.
5. A **submission** to an inquiry is a written document representing the views of the Victorian Government, provided for the inquiring body's consideration. A submission may be made on the initiative of a Minister, or may follow an invitation.
6. A **response** is a written document provided by the Victorian Government in reply to the report or findings of an inquiry or review. Responses may be voluntary, or compulsory under the *Parliamentary Committees Act 2003* or the standing orders of the Legislative Council or Legislative Assembly of the Parliament of Victoria.
7. For the purpose of these Guidelines, an **inquiry** or **review** refers to:
 - an inquiry undertaken by a Parliamentary committee from any Australian jurisdiction;
 - an inquiry or review established under the *Inquiries Act 2014* or similar legislation from another Australian jurisdiction; and
 - a review or advisory process initiated by a Minister or Commissioner from a non-Victorian jurisdiction.

¹ Please refer to sections 4-6 of the *Public Administration Act 2004* for definitions of public service bodies, public entities, exempt bodies and special bodies.

8. These Guidelines are *not* intended to apply to regular or periodic calls for information (such as the Victorian Parliamentary Public Accounts and Estimates Committee questionnaires), parliamentary requests for specific documents (including requests from parliamentary committees), legal proceedings or Victorian Government reviews. Nor are they intended to apply to regular information sharing between various levels of government, such as fixed term reviews of regulatory decisions, periodic updates of action or implementation plans, or time bound data reporting. The Secretary, DPC may provide an exemption from these Guidelines to a government body on a case by case basis.
9. If these Guidelines do not apply because a particular process falls outside the scope of this document, government bodies are still responsible for appropriately briefing their Minister or Cabinet on the matter. Government bodies are expected to exercise due judgment to ensure matters are considered and approved at the appropriate level. For example, it may still be appropriate to seek Cabinet's approval of the Victorian Government's contribution to a review of a regulatory decision, if that contribution impacts on multiple portfolios, or has significant budgetary implications.
10. Time frames for submissions and responses can be short. A government body should contact the relevant DPC policy branch as early as possible to discuss the submission or response, before commencing work.

Preparing submissions to an inquiry or review

11. The preparation of a high-quality submission is resource intensive and time consuming. Submissions are to be prepared only where an inquiry addresses issues of substantial importance and making a submission would be of strategic value to the Victorian Government. Usually simply presenting a Victorian Government policy position would be an insufficient reason for making a submission.
12. Government bodies preparing a submission should familiarise themselves with the terms of reference of the specific inquiry and the relevant body's governing legislation or constitution.
13. A submission may cover all the points raised in the terms of reference or a selection of them.
14. The Victorian Government does not have a prescribed format for submissions or responses. Some inquiries may have a preferred or prescribed template for submissions or responses. In all cases, submissions or responses should be concise and clear.

Preparing responses to inquiry reports and recommendations

15. The outcome of most inquiries and reviews is a report which may make recommendations, criticise current policy or advocate new policy or legislative change.
16. Section 36 of the *Parliamentary Committees Act 2003* and standing order 23.30 of the Legislative Council Standing Orders obliges the Victorian Government to table responses to reports of Joint Investigatory Committees and Legislative Council committees that recommend Government action. The responsible Minister must provide the Parliament with a response to the committee's recommendations within six months of the committee's report being tabled.

17. In every instance, government bodies should check whether an inquiry report requires a response to a recommendation for Government action, and the time required for the response to be given. Government bodies should only respond to interim reports where required, unless there is strategic value to the Victorian Government in doing so.
18. If provided, responses to recommendations must only be one of five types:
 - **support in full** — all elements of the recommendation are supported;
 - **support in part** – some elements of the recommendation are supported;
 - **support in principle** – the Victorian Government generally supports the intent or merit of the policy underlining the recommendation, but does not necessarily support the method for achieving the policy;
 - **under review** – further analysis is required for the Victorian Government to determine its position (when possible, estimated expected timeframes for the review and/or implementation should be included in the response); or
 - **not support** – the Victorian Government does not support the recommendation.
19. Each response must be accompanied with a clear rationale, including relevant information which informed the decision. Supported recommendations should also include information on planned implementation and timelines, if known. For example, if a recommendation has been supported, a response should indicate if actions have been completed or are underway to address the recommendation.

Approval for submissions and responses

20. Any government body wishing to make a submission or response to an inquiry must seek their Minister's endorsement for the relevant Secretary or head of the government body to write to the Secretary of the Department of Premier and Cabinet (DPC) to obtain approval to make the submission or response, and to determine the level of approval required for that submission or response. The Premier may determine, at any time, that a submission is not required.
21. If a submission or response affects more than one portfolio area, DPC will advise the government body on a coordination process. Generally, the government body most concerned with the subject matter of the inquiry will be responsible for writing and coordinating the submission or response process with any other affected government bodies.
22. If the Minister provides their endorsement, the government body must write to the Secretary, DPC, as soon as possible seeking approval to make the submission or response and advising:
 - whether the submission or response is to a Victorian or non-Victorian inquiry, the issues of substantial importance that the inquiry will canvass, and the reasons why making a submission or response would be of strategic value to the Victorian Government;
 - the proposed content (or outline) of the submission or response and whether it will affect other portfolios;
 - whether the submission or response will contain only technical information, advocate an existing Victorian Government policy position or put forward a new policy position;

- whether the matters discussed in the submission or response will have budgetary implications;
- the sensitivity of the topic to be discussed and any risks posed by the submission or response, particularly with respect to likely stakeholder or community reactions;
- where relevant, whether other jurisdictions are to make a submission and the expected content of this submission if known;
- when the submission or response is due; and
- whether subsequent submissions or responses to the inquiry will be required.

23. See Appendix 1 for a checklist of information to be included in the letter to the Secretary, DPC. The government body is encouraged to discuss the submission or response as early as possible with the relevant DPC policy branch to ensure all elements are covered in the letter.

24. The approval level will be decided by the Secretary, DPC, and will vary depending on the nature of the submission or response. Submissions or responses that are technical in nature might receive final approval from the relevant Minister. Submissions or responses that affect multiple portfolios, have budgetary implications or put forward a new policy proposal might need final approval from the Premier and/or Cabinet (see Table 1 below).

Table 1: Guidance on possible approval levels for submissions and responses

Submission or response type	Possible approval level (decided by the Secretary, DPC)
The submission or response contains only technical information that is not sensitive.	The relevant Minister may approve submissions or responses that are technical or advocate existing policy.
The submission or response advocates an existing Victorian Government policy position.	
The submission or response relates to a sensitive topic or might result in strong community or stakeholder reactions.	The Premier and, if the Premier requires, the Cabinet may approve submissions or responses that are sensitive or might attract strong public comment.
The submission or response has budgetary implications.	The government body preparing the submission or response will be required to consult with the Department of Treasury and Finance. The Premier and, if the Premier requires, the Treasurer and/or Cabinet may approve submissions that have budgetary implications.
The submission or response affects multiple portfolios.	A whole-of-government submission might be required. The department or agency preparing the submission or response will be required to consult all affected portfolios. The Premier and, if the Premier requires, the Cabinet may approve the final submission or response.
The submission or response puts forward a new policy position.	Cabinet's approval will likely be required for submissions and responses that put forward new policy positions.

25. DPC will advise the government body on the approval level accordingly.
26. An inquiry may request further information or clarification of an existing submission's content. Ministers may approve subsequent submissions, unless the subsequent submission involves more than one portfolio, relates to a sensitive topic, has budgetary implications or puts forward a new policy position. In these cases, the Secretary, DPC must be written to again to determine an appropriate approval level.
27. An outline of the approval process for submissions and responses is at Appendix 2.

Publication of submissions and responses

28. Unless specifically requested (see paragraph 29 below), submissions and responses may be made publicly available. Submissions should be drafted with this in mind.
29. It is possible to request that a submission, or part of one, remain confidential. The Minister should have this formally agreed with the relevant committee or body conducting the inquiry before the submission or response is lodged.

Making a submission in a personal capacity

30. Public sector employees wishing to make a submission in a personal capacity must ensure compliance with the *Code of Conduct for Victorian Public Sector Employees (2015)*, particularly sections 3.4 and 3.5.
31. Under section 3.4, public sector employees with access to official information must ensure it is only used for official purposes and in an approved manner. Public sector employees can only disclose official information and documents when required to do so by law, in the legitimate course of duty, when called to give evidence in court, or when proper authority has been given.
32. Under section 3.5, public sector employees making a comment in a private capacity must ensure their comments are not related to any government activity that they are involved in or connected with as a public sector employee and must make it clear they are expressing their own view. Public sector employees must ensure personal comments do not compromise their capacity to perform their public sector role in an unbiased manner and that their comments are not seen or perceived to be an official comment.

Further information

33. For further information about these Guidelines, please contact Governance Branch, DPC on 9651 1001.
34. For information about appearing before a parliamentary committee or responding to a request for documents, please contact Office of the General Counsel, DPC on 9651 0361.

Appendix 1: Checklist of information to be included in the letter to the Secretary, DPC

Checklist	Included?
Inquiry	
What is the name of the inquiry, and is the inquiry being conducted by a Victorian or non-Victorian body (e.g. the Commonwealth)?	
What are the issues of substantial importance that the inquiry will canvass, and the reasons why making the submission would be of strategic value to the Victorian Government?	
What is the due date for the submission or response?	
Is it expected that other jurisdictions will make submissions to the inquiry? Indicate the expected content of those submissions if known.	
Is it anticipated that subsequent submissions or responses to the inquiry will be required?	
Content	
What is the proposed content (or outline) of the submission or response?	
Will the issues addressed in the submission or response affect multiple portfolios? If yes, what consultation is proposed to be undertaken?	
Will the submission or response contain only technical information, advocate an existing Victorian Government policy position, or put forward a new policy position?	
Will the matters discussed in the submission or response have budgetary implications?	
Will the submission or response relate to a sensitive topic, and what are the risks, particularly in respect to likely stakeholder or community reactions?	

Appendix 2: Approval process for submissions and responses

