



**Government
of South Australia**

Department of the Premier and Cabinet Circular

DPC CIRCULAR 043

Public Sector Responsiveness

Purpose

Public Sector employees and the sector as a whole have a duty to be both efficient and effective in conducting their business, providing services and making decisions.

This circular outlines three new policy approaches that aim to improve Public Sector responsiveness and reduce unnecessary delays in relation to legal opinions and other (non-legal) consultancy reports, meetings, and correspondence.

Scope

This policy is applicable to South Australian Public Sector agencies. The definition of 'public sector agency' in the *Public Sector Act 2009* can be found in Appendix 1.

Policy

1. Legal advice and consultancies only where required and/or appropriate

It is essential that Public Sector agencies, when engaging legal advice (both from the Crown Solicitor's Office (CSO) and from external legal providers), and when entering into other types of consultancies, have a clear purpose for the engagement and seek advice in a way that supports timely decision making.

Public Sector agencies must only seek legal advice or enter into other consultancies where required and/or appropriate. For example:

- It may be *appropriate* to seek legal advice on legal issues, but seeking legal advice on matters of policy may not be required.
- Legal advice may be *required* when there is a legal or legislative requirement.
- Seeking legal advice may be *appropriate* when the level of legal issues and/or legal risk is high enough to warrant legal advice.
- An external consultancy may be *required* when capacity or critical skills are not available within their agencies.
- It may be *appropriate* to seek external legal advice when the CSO does not have capacity to provide legal advice, or when a conflict exists.

Public Sector chief executives and agency heads must assign a senior executive to ensure:

- Arrangements and aligned monitoring systems are in place within the agency to limit engagement of legal advice or consultancies to cases where required and/or appropriate.
- All legal advice requests and other consultancy engagements are approved by a director-level officer in line with the agency's delegations, and, for engagement of external legal providers (i.e. non-CSO); align with *Treasurer's Instruction 10– Engagement of Legal Practitioners*.

- Legal advice and other consultancy contracts with external providers, or instructions provided to the CSO, include a requirement that preliminary, actionable advice is provided to avoid delays in decision making.

This policy applies to all types of legal and consultancy engagements, including ad hoc advice provided to agencies by the CSO at short notice; it should be implemented so as not to prevent urgent requests being made when required.

Agencies can contact a CSO representative for further guidance about whether legal advice may be required and/or appropriate if that cannot be resolved internally or if agencies are unsure whether a matter is a legal or a policy issue.

2. Eliminate unnecessary meetings

Unnecessary or inefficient meetings reduce employee productivity. Public Sector agencies must remind and support employees to only have meetings when it is necessary, to ensure the right people are in attendance, and the meeting has a clear purpose and outcome.

Every proposed meeting should address the following 'Five Ps':

1. Purpose – Should a meeting be held?
2. People – Who should be there?
3. Preparation – Are the participants prepared?
4. Procedure – How will the meeting be conducted?
5. Product – What is the desired outcome of the meeting?

The Five Ps Framework will assist planning for meetings to ensure that they are necessary, are conducted efficiently, and are attended by the right people.

3. Response Times for Correspondence

The South Australian Government receives a large volume of correspondence each year. Replying to correspondence promptly and helpfully demonstrates the efficiency and responsiveness of the Public Sector.

Public Sector agencies are required to provide a substantive response to correspondence within four weeks if:

- The correspondence is addressed to a minister or agency senior executive¹
- The author asks for or it is reasonable to expect, information, a decision, or a policy position from the State Government.

¹ For example Deputy Chief Executives and above, however there is some flexibility in how agencies define 'senior executive' depending on their structures and capacity to report down to certain levels.

If this is not possible, the responsible officer must advise the correspondent (or ministerial office) by telephone or by email, and provide them with an expected response date. This requirement is not satisfied by agencies' usual process of acknowledging receipt of correspondence.

The four week timeframe begins when the correspondence is received in the agency and ends when the final response is mailed or emailed to the correspondent (for executive correspondence) or the minister's office (for ministerial correspondence).

In some particularly complex matters, it may not be possible to provide a substantive response within four weeks. These matters may include:

- police investigations
- legal matters
- medical review outcomes
- Coroner's inquests
- workforce investigations
- Independent Commissioner against Corruption or Freedom of Information matters.

Further, correspondence is excluded from the requirements in this circular if it:

- is between South Australian Government agencies or from other government agencies
- already has a timeframe requirement, such as a Freedom of Information request, or investigative process
- is from anonymous correspondents and/or with no return address
- contains offensive language or content
- is sent as part of a mass mailing campaign
- contains unsolicited advertisements
- is vexatious where the correspondent has received previous substantive responses on the same matter.

Correspondence that contains threatening content will be referred to South Australia Police.

Monitoring and reporting

Agencies are expected to monitor their progress against each of these policies.

Annually, DPC will prepare a report for the Cabinet on agencies' implementation of and progress against two of these policies; 'legal advice and other consultancies only where required and/or appropriate' and 'response times for correspondence'.

Chief Executives must ensure systems and are in place to enable data to be provided to DPC from mid-2018 on the following KPIs:

- Identification of a Senior Executive to monitor legal advice and consultancies (achieved/not achieved).
- Year on year changes in the number of legal advice and consultancy contracts entered into (quantitative).
- Evidence of behavior change in requests for legal advice and consultancies (qualitative).
- Progress in establishment of robust correspondence management systems (qualitative).
- Year on year changes in the number and proportion of executive correspondence items responded to within four weeks (quantitative).
- Year on year changes in the number and proportion of ministerial correspondence items responded to within four weeks (quantitative).
- Year on year changes in the number and proportion of correspondents directly contacted with advice that their correspondence will not be responded to within four weeks – for executive correspondence (quantitative).
- Year on year changes in the number and proportion of correspondents directly contacted with advice that their correspondence will not be responded to within four weeks – for ministerial correspondence (quantitative).

Expenditure on and number of legal and consultancy contracts will continue to be reported by agencies as part of annual reporting requirements, and this reporting is expected to be able to feed directly into the Cabinet reporting process; limiting the reporting burden on agencies.

Response times for correspondence will be reported by those chief executives to which *Department of the Premier and Cabinet 29: Chief Executive Performance Agreement* applies, as part of their performance appraisal.

For further advice or assistance please contact:

Office for the Chief Executive
Department of the Premier and Cabinet

Phone: (08) 842 95018
Email: OCE@sa.gov.au

Appendix 1: Definition of a public sector agency (section 3 of the *Public Sector Act 2009*):

public sector agency means—

- (a) a Minister; or
- (b) a chief executive of an administrative unit; or
- (c) an administrative unit; or
- (d) an employing authority; or
- (e) any other agency or instrumentality of the Crown; or
- (f) a body corporate—
 - (i) comprised of persons, or with a governing body comprised of persons, a majority of whom are appointed by the Governor, a Minister or an agency or instrumentality of the Crown; or
 - (ii) subject to control or direction by a Minister; or
- (g) a person or body declared under subsection (3) to be a public sector agency; or
- (h) a subsidiary of a Minister or a person or body referred to in a preceding paragraph, but does not include—
 - (i) a person or body declared under an Act not to be part of the Crown or not to be an agency or instrumentality of the Crown; or
 - (j) a person or body declared under subsection (3) not to be a public sector agency