

Premier's Circular

Number:	2010/03
Issue Date:	11/08/2010
Review Date:	11/08/2012

TITLE

DEVELOPING AND MAKING WRITTEN SUBMISSIONS TO NATIONAL INQUIRIES

POLICY

All Western Australian public sector bodies¹, including SES and non-SES organisations are to follow the process for developing and lodging written submissions to national inquiries as outlined in the guidelines attached to this Circular.

Written submissions to national inquiries must represent a consolidated Western Australian Government view, and public sector bodies must consult with departments and agencies in relevant portfolios in formulating a position. In some circumstances, the Department of the Premier and Cabinet will coordinate the development of a whole of Government submission.

Public sector bodies are to inform the Department of the Premier and Cabinet of their intention to develop a submission, and their progress with developing the submission. Depending on the nature of the submission, public sector bodies must seek final approval to lodge a submission to a national inquiry from either their Minister, the Premier, or Cabinet.

Where submissions to national inquiries cover issues that have material resourcing implications for the State, public sector bodies must consult with the Department of Treasury and Finance in developing the submission.

With respect to Commonwealth Parliamentary inquiries (Senate and House of Representatives), public sector bodies are generally not to make submissions to these inquiries unless there are exceptional circumstances. The approval of the Director General of the Department of the Premier and Cabinet (under delegated authority from the Premier) is required before a submission can be developed.

International inquiries are generally received in the first instance by the relevant Commonwealth agency, before being forwarded to the Department of the Premier

¹ "Public sector body" is defined in section 3 of the *Public Sector Management Act 1994* to mean "agency, ministerial office or non-SES organisation". For SES and non-SES organisations, this policy applies to the extent that it is relevant to them in the context of their governing legislation. SES and non-SES organisations should consider the provisions of their governing legislation, and seek advice on the application of this policy, if necessary. If this policy does not apply, and an SES or non-SES organisation wishes to make a submission independently of a Government department or agency, it is recommended that the following statement is included in the submission "*The submission does not represent the views of the Western Australian Government*", and a copy provided to the relevant Minister.

and Cabinet for coordination of a consolidated State Government response through the existing Standing Committee on Treaties process.

Should a request for a submission to an international inquiry be received directly by State Government line agencies, those agencies are at all times required to contact the Department of the Premier and Cabinet, so that the request can be evaluated and if required, a consolidated WA Government response prepared. This same process should also be applied to requests received from other States and Territories, as well as local government authorities.

BACKGROUND

Western Australian public sector bodies receive formal requests from the Commonwealth to make submissions to national inquiries, or become aware that the Commonwealth Government is undertaking a national inquiry.

National inquiries include inquiries and reviews undertaken by Commonwealth committees (including Commonwealth Parliamentary committees from the Senate and House of Representatives), commissions, taskforces, and agencies on matters that may affect State Government policy and/or administration.

The Department of the Premier and Cabinet will be maintaining a list of State Government submissions to national inquiries.

Officials who are called to give oral evidence to a Commonwealth Parliamentary inquiry need to comply with the Public Sector Commissioner's Circular 2010-03 *Policy for Public Sector Witnesses Appearing Before Parliamentary Committees*.

Colin Barnett MLA
PREMIER

For enquiries contact:	Department of the Premier and Cabinet national.inquiries@dpc.wa.gov.au or 9222 9492
Other relevant Circulars:	Public Sector Commissioner's Circular 2010-03

GUIDELINES FOR MAKING WRITTEN SUBMISSIONS TO NATIONAL INQUIRIES

Submissions to National Inquiries (except Commonwealth Parliamentary committee inquiries)

1. A public sector body that intends to lodge a written submission with a national inquiry must inform the Department of the Premier and Cabinet (DPC) in writing at an early stage. This notification may be made by email to national.inquiries@dpc.wa.gov.au.
2. Where the subject matter of a national inquiry is relevant to a single department or agency, the department or agency may develop the submission following consultation with DPC. Where the subject matter of a national inquiry is relevant to two or more departments or agencies, a lead department or agency, or DPC will coordinate the development a whole of government submission in consultation with other relevant agencies. Relevant departments or agencies should discuss coordination arrangements in consultation with DPC.
3. Where submissions to national inquiries cover Commonwealth-State financial relations, policy and/or administration issues that have material resourcing implications for the State, departments and agencies must consult with the Department of Treasury and Finance in developing the submission.
4. Where submissions cover legal issues, including constitutional issues, or Western Australia's obligations under Commonwealth legislation, public sector bodies must consult with DPC. Public sector bodies should also consult with the State Solicitor's Office, other than in the most straightforward of cases.

Approval Process

5. The approval process to be followed depends on the content of the submission and whether the submission is developed by a single department or agency, or a lead department or agency.
6. Where a submission is developed by a single agency and contains factual and non-contentious issues, the department or agency needs to seek the approval of their Minister to lodge the submission. Following this approval, the department or agency must provide a copy of the final submission to DPC before sending it to the national inquiry.
7. Where a submission is developed by a single agency and covers significant, controversial and/or emerging areas of Government policy, the department or agency must prepare a Cabinet submission seeking approval to lodge the submission.
8. Where a submission is coordinated by a lead agency, or by DPC, and covers factual and non-contentious issues, the approval of the relevant Minister and the endorsement of the Premier is required. The Premier may send the final submission to the national inquiry. Similarly, where DPC coordinates the development of the submission, the Premier's approval is required before the submission is lodged.

9. Where a submission is coordinated by a lead agency, and covers significant, controversial and/or emerging areas of Government policy, the lead department or agency or DPC (where relevant) may prepare a Cabinet submission seeking approval to lodge the submission. Where a lead department or agency is preparing the Cabinet submission, consultation with DPC on the content of the Cabinet submission needs to occur.
10. DPC can provide assistance to departments and agencies in determining what is a significant, controversial or emerging issue.
11. Attachment A to these guidelines is a flow diagram outlining the process for developing and making submissions to a national inquiry (except Commonwealth Parliamentary Committee inquiries).

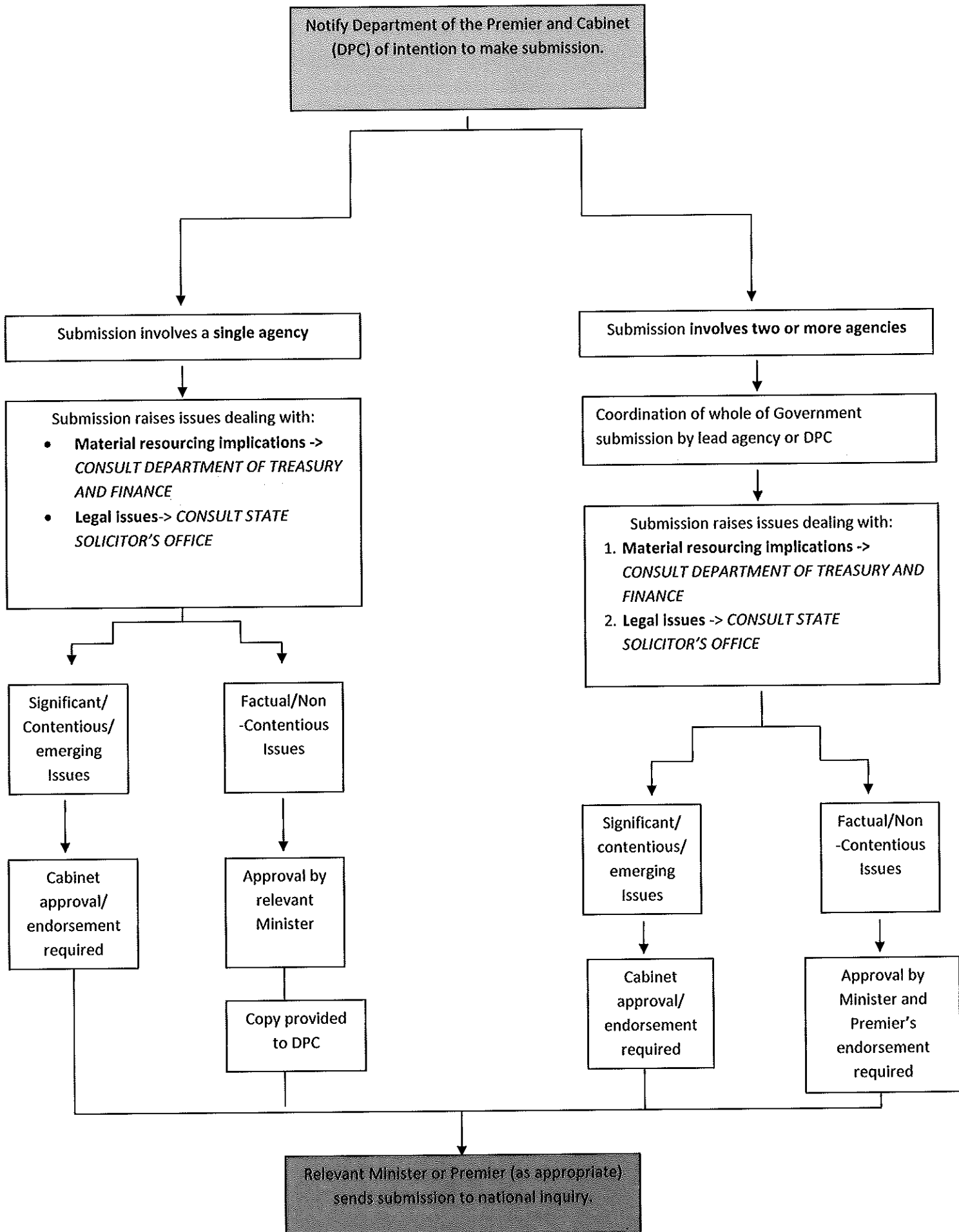
Submissions to Commonwealth Parliamentary Committee Inquiries (Senate and House of Representatives)

12. In general, the Chairperson of a Commonwealth Parliamentary inquiry writes to the Premier inviting a submission from the Western Australian Government to make a submission to an inquiry. However, in the event that a Minister, department or agency receives a direct request, the relevant department or agency within the Minister's portfolio should inform DPC of the request as soon as possible.
13. Unless exceptional circumstances exist, the Western Australian Government does not generally make submissions to these inquiries given the other inter-government mechanisms that exist between the State and the Commonwealth.
14. DPC will consult with relevant Ministers' offices, departments and agencies about whether exceptional circumstances exist in a specific case.
15. Where there are good reasons to make a submission, the following process applies:
 - a. where the subject matter of the inquiry affects a single department or agency – the department or agency may develop the submission, following consultation with DPC;
 - b. where the subject matter of the inquiry affects more than one department or agency – a lead department, or DPC (where relevant) will coordinate a consolidated Government submission.
16. Where the subject matter of the submission covers financial matters, consultation must occur with the Department of Treasury and Finance. Where legal issues, including constitutional issues arise, public sector bodies must consult with DPC, and seek legal advice from the State Solicitor's Office, other than in the most straightforward of cases.
17. If a submission contains factual and non-contentious issues, the department or agency developing the submission must seek the approval of their Minister to lodge the submission. Once this approval is received, the department or agency should forward the submission to DPC who will arrange for the Premier

to approve, and in some cases, send the final submission to the Parliamentary Committee.

18. Where a submission contains significant, contentious and/or emerging policy issues, the department or agency must, through their Minister, present the submission to Cabinet for consideration. If approved, the Premier will send the final submission to the Parliamentary Committee.
19. Where a department or agency becomes aware that a Parliamentary Committee is being conducted, and has not been contacted by DPC, then the department or agency should contact DPC to discuss whether exceptional circumstances exist to develop a submission. If exceptional circumstances do exist, then the process outlined in paragraphs 12-18 above apply.
20. Attachment B to these guidelines is a flow diagram outlining the process for developing and making a submission to a Commonwealth Parliamentary Committee inquiry.
21. Sometimes, State officials are asked to appear before a Commonwealth Parliamentary Committee to answer questions about a submission, or provide further information to the Committee. In these circumstances, the Public Sector Commission *Policy for Public Sector Witnesses Appearing Before Parliamentary Committees* applies (see PSC Circular 2010-03).

National Inquiries Process Flow Chart (except Commonwealth Parliamentary Committee inquiries) – Attachment A



National Inquiries Process Flow Chart -Commonwealth Parliamentary Committee inquiries – ATTACHMENT B

