

Premier and Cabinet Circular

PC001 – GUIDANCE ON THE DEVELOPMENT AND REVIEW OF PREMIER AND CABINET CIRCULARS

Effective from 1 July 2020
Public-I3-A2

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Purpose

The purpose of this Premier and Cabinet Circular is to provide guidance on the preparation of new circulars and to introduce greater consistency and quality control across existing circulars.

Authority

Premier and Cabinet Circulars are issued by Cabinet. They are used to establish whole of government policy, often including instructions or requirements for agencies to take specific action in the implementation of those policies.

They are titled Premier and Cabinet Circulars to reinforce that they have the authority of Cabinet and that they have broad application across the public sector.

It is the responsibility of agency Chief Executives to remain informed of circular requirements and to ensure agencies comply with their directives.

Application

Premier and Cabinet Circulars apply to all entities covered by the *Public Sector Act 2009*, unless an exemption has been provided.

Possible exemptions

There are situations where a specific public sector entity may be exempt from a particular Premier and Cabinet Circular. This could occur for a number of reasons, including:

- A Premier and Cabinet Circular may identify a specific sub-set of public sector entities to which the Circular applies, or it may specify that certain entities are exempt from compliance.
- A Premier and Cabinet Circular may detail a specific process by which public sector entities can seek an exemption from compliance with that circular.

Administration

Cabinet Office in the Department of the Premier and Cabinet (DPC) is responsible for the management and administration of Premier and Cabinet Circulars.

Any agency can put forward a case for a new or revised circular.

Prior to proposing a new/revised circular, authoring agencies should consult with Cabinet Office via DPCCabinetOffice@sa.gov.au for advice as to whether a Premier and Cabinet Circular would be an appropriate means of communicating the policy and the actions required to implement it as there are a number of other mechanisms available for achieving consistent, government-wide outcomes. These include statutory instruments (e.g. Treasurer's Instructions, Commissioner for Public Sector Employment Determinations and Premier's Directions).

The factors that should be considered when determining the appropriate mechanism are provided in the attachment to this circular (Attachment 1).

While authoring agencies are expected to act upon Cabinet Office's advice, Cabinet is responsible for the approval and issuing of new circulars.

As responsibility for monitoring compliance with Premier and Cabinet Circulars resides with the Chief Executive of the originating agency, consideration should be given to how compliance will be monitored. Authoring agencies should also consider the impact the requirements of the Circular may have on other agencies and entities.

Format and content

Current Premier and Cabinet Circulars and templates are available on the DPC website.

Content must relate to whole of government policy, processes and issues of strategic importance to the state. Further details may be provided in accompanying guidelines if necessary.

The title of the circular must be short but descriptive.

All circulars must be reviewed following a state election to ensure they are consistent with any new policy commitments. The review must commence no more than six months from the outcome of the election and be completed within three months of commencement. It is the responsibility of the authoring agency to undertake the review.

Approval process

The approval process for updating or introducing a new circular is outlined below.

1. Authoring agency speaks to Cabinet Office about the appropriateness of a new Premier and Cabinet Circular before seeking Ministerial endorsement, ensuring Cabinet Office advice is incorporated.
2. Agency submits proposal for a new Premier and Cabinet Circular to Cabinet Office, including:
 - a. Draft circular;
 - b. Ministerial endorsement;
 - c. An explanation of the circular's strategic importance to whole of government; and
 - d. Why an alternative mechanism could not achieve a similar outcome.
3. Cabinet Office review the draft Premier and Cabinet Circular for strategic alignment, appropriateness, style and consistency.
4. Agency prepares cabinet submission seeking Cabinet approval to issue a new Premier and Cabinet Circular through the normal Cabinet process.
5. Where appropriate, Cabinet Office issues a number for the new Premier and Cabinet Circular.

A similar process applies to the amendment of existing circulars following a review, however:

- if the only changes that are required are changes to agency names or updated links, the author can make the changes; and
- if the amendments are relatively minor and do not involve changes to policy, agency Chief Executive approval will suffice.

Once finalised, documents are submitted to [Cabinet Office](#) in PDF format for publishing on the DPC website.

Distribution

The authoring agency is responsible for advising all agency Chief Executives of circular changes or additions. The advice should include the intent of the circular, any actions required by agencies and a contact point for enquiries.

The new or revised Premier and Cabinet Circular must be made available on the DPC website.

Document control

Review number: 0
Review date: N/A

Date of approval: 22 June 2019
Next review date: July 2022

For more information

Cabinet Coordination, Cabinet Office
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E: DPCCabinetOffice@sa.gov.au
W: dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars

Attachment 1: Factors to be considered when determining the appropriate mechanism for achieving consistent government-wide outcomes

There are a number of mechanisms available to the Premier and Cabinet when seeking to achieve consistent government wide outcomes. Broadly, these mechanisms are:

1. Statutory Instruments
2. Premier and Cabinet Circulars

The following factors should be considered when determining which method is appropriate:

1. Statutory Instruments

There are number of legislative frameworks that underpin the administration of government in South Australia. Key amongst those are the *Public Finance and Audit Act 1987* and the *Public Sector Act 2009*. These Acts include the power to make and issue statutory instruments, such as instructions (e.g. Treasurer's Instructions), determinations (e.g. Commissioner for Public Sector Employment Determinations) and directions (e.g. Premier's Directions).

These statutory instruments make rules that are subject to external reporting, review and compliance (although there is no penalty with non-compliance with Premier's Directions). It is important therefore that the rules are unambiguous and drafted with a view to legal interpretation. Ideally, they should be drafted by Parliamentary Counsel or the Crown Solicitor's Office. While guidance from the responsible agency is desirable it should not be incorporated into the instrument. The application to agencies will be determined by the enabling legislation.

Premier's Directions are similar to a circular but can address matters that do not require general application and circularisation.

Examples include:

- *Direction of the Premier of South Australia – Standard Duration of Executive Level Employment*; and
- *Direction of the Premier of South Australia – Recruitment*

2. Premier and Cabinet Circulars

Premier and Cabinet Circulars are flexible documents that can, for example include administrative instructions, guidance, and principles.

They are suited to administrative matters where the Premier and Cabinet seek general application across the public sector and are not directly addressed by legislative frameworks. Generally, Premier and Cabinet circulars are subject to internal reporting and compliance mechanisms, unless they are enlivened by a statutory instrument.

They can, however, set the benchmark against which activities can be scrutinised. The application to agencies is determined by the circular and the relevant legislation applicable to the agency e.g. the *Public Sector Act 2009* or relevant establishing legislation.