

Premier and Cabinet Circular

PC 046 – THE SOUTH AUSTRALIAN PRODUCTIVITY COMMISSION

Effective from November 2023

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Purpose statement

The South Australian Productivity Commission (the Commission) provides independent advice to government to facilitate productivity growth, unlock new economic opportunities, support job creation and remove existing regulatory barriers.

The Commission will exercise independence, rigour and transparency in its operations and in the way it conducts its work.

Context

This Circular sets out the objectives and functions of the Commission, how inquiries are referred to the Commission, undertaken and reported on, and how the Commission and public sector agencies cooperate in support of the performance of the Commission's functions.

This Circular applies to South Australian Government public sector agencies as defined in the *Public Sector Act 2009*.

Authority and accountability

The **Premier** is the Minister responsible for the Commission and The Office of the South Australian Productivity Commission (OSAPC). In order to support the independence of the Commission, the Premier will not direct the Commission regarding the conduct of its work except through written directions, which may be published by the Commission.

The Commission comprises a Chair and other Commissioners who are appointed from time to time under the Constitution Act 1934, to ensure accountability, transparency and independence. Commissioners may be appointed for the duration of an inquiry or for a period of up to three years which may be renewed.

The Commission may publish statements, reports and guidelines to support the performance of its functions.

The Office of the South Australian Productivity Commission (OSAPC) supports the Commission to deliver its functions and is an attached office to the Department of the Premier and Cabinet. The Premier may ask OSAPC to undertake other advisory work from time to time, but all requests intended to result in a publication should be directed through the Commission. OSAPC has a dedicated Chief Executive, which is a separate role from that of Commissioner, who is responsible to the Premier as the responsible Minister.

The Commission may authorise the OSAPC to act on its behalf in various activities to conduct its inquiries.

Application

Objects and functions of the Commission

The objectives of the Commission are to:

- i) improve the rate of economic growth and productivity of the South Australian economy in order to achieve higher living standards for South Australians
- ii) improve the accessibility, efficiency and quality of services delivered or funded by government
- iii) improve South Australia's competitiveness for private sector investment
- iv) reduce the cost of regulation
- v) facilitate structural economic changes whilst minimising the social and economic hardship that may result from those changes
- vi) take into account the interests of industries, employees, consumers and the community
- vii) increase employment
- viii) promote regional development, and
- ix) develop South Australia in a way that is ecologically sustainable.

The Commission's functions to further its objects are to:

- i) hold inquiries and report to the Premier on matters referred by the Premier,
- ii) advise the Premier on any matter referred by the Premier (including undertaking a commissioned report),
- iii) promote public understanding of the objects of the Commission,
- iv) conduct a policy and research program that is developed in consultation with the Premier,
- v) perform any other function conferred on the Commission by the Premier, and
- vi) do anything incidental to any of the preceding functions.

Outputs of the Commission

To achieve its objectives, the Commission delivers independent advice, conclusions and recommendations to government through reports, research discussion papers and memoranda. In developing these, the Commission shall ensure they:

- reflect the Commission's independent conclusions,
- are based on evidence, rigorous analysis, and (where relevant) expert opinion from a wide range of stakeholders, and
- focus on delivering net benefits to South Australians in the short and long term.

Stakeholder engagement and public consultation processes shall be transparent and foster respectful debate.

Inquiries

Referral

The Commission must inquire into any matter that the Premier refers to them.

Referrals are made via a written notice which must specify the inquiry's terms of reference. The Commission must be consulted while terms of reference are drafted, particularly on the scope and time allocated to the task. The CE OSAPC, CE DPC and Cabinet Office DPC will also be consulted on draft terms of reference.

In developing referrals and terms of reference the Premier may:

- require that a report on the inquiry be delivered to the Premier within a specified period,
- require the Commission to make a draft report publicly available or available to specified persons or bodies during the inquiry,
- require the Commission to consider specified matters, and
- give the Commission specific directions in respect of the conduct of the inquiry.

The Premier may vary the terms of reference or a requirement or direction by written notice.

Notice of inquiries

The Commission must publish notice of an inquiry on the Commission's website. The notice must:

- specify the purpose and timeframe of the inquiry including key dates such as the public submission period and the date the report will be submitted to the Premier, and
- include the terms of reference and any requirements or directions of the Premier.

The Commission must publish a further notice if the terms of reference or any requirement or direction relating to the inquiry are varied.

Conduct of inquiries

Each inquiry will have a Presiding Commissioner who is primarily responsible for conducting the inquiry. They will be appointed by the Chair of the Commission. Other Commissioners may be appointed by the Presiding Commissioner, subject to approval by the Chair of the Commission.

Subject to any requirement or direction of the Premier set out in the notice of inquiry, the Commission can determine the most appropriate way to conduct the inquiry, including undertaking public hearings.

Submissions received within the consultation period will be published on the Commission's website, unless:

- they are assessed as being offensive, potentially defamatory, beyond the scope of the inquiry's terms of reference or an abuse of process; or
- a stakeholder has requested that the submission be treated as confidential.

Personal and identifying information will be redacted before reports are published, as well as parts the submission's author has asked to be treated as confidential.

Notwithstanding the Commission's policies on publication of submissions, any submissions received as a document held by a government agency are subject to the *Freedom of Information Act 1991*.

Public sector agencies may make submissions with the approval of the Chief Executive and Minister. These submissions will be published on the Commission's website.

Public sector agencies may also provide information to the Commission as correspondence or in other appropriate forms. This information will not be published without the agency's approval although it may be cited in Commission reports at the Commission's sole discretion.

The Commission is not bound by the rules of evidence when conducting an inquiry.

Reports of inquiries

The Commission must deliver a copy of its final report on an inquiry to the Premier.

It must also ensure the report is available on its website 90 days after it is delivered to the Premier, or sooner if the Premier specifies a shorter period.

The Premier may appoint a lead Minister to develop the government's response to a Commission report, with an endeavour to respond within 90 days of receiving the report.

Public sector agency cooperation with the Commission

Public sector agencies, as defined under the *Public Sector Act 2009*, must cooperate with the Commission and the OSAPC by providing relevant information and making staff available to it as appropriate. This includes:

- providing contact details of agency staff, industry bodies and other stakeholders that can assist with an inquiry or other work in support of the Commission's functions when requested by the Commission,
- unless prohibited by law, providing all relevant, factual information (including but not limited to books, papers, surveys, reports, data and other documents and records) whether available in the public domain or not, that is in the possession of

the agency, or can reasonably be obtained by the agency, when requested by the Commission as part of performing its functions,

- temporary assignment of staff to inquiries as detailed below;
- facilitating entry and inspection by the Commission of any land, building, place, vessel, goods and other things which the Commission deems to be relevant to its functions; and
- responding to requests in a timely manner to ensure the timeframes of an inquiry, or other work supporting the Commission, are met.

The Commission and OSAPC will collaborate with public sector agencies to:

- preserve the sensitivity of information provided by a public sector agency having regard to the Commission's principles of transparency and independence, and its obligation to publish reports arising from inquiries, and
- ensure the purpose and intent of the information provided by a public sector agency is understood by the Commission in the course of its work.

Temporary assignment of staff from public sector agencies

Public sector agencies are required to make staff available to the Commission on a temporary basis to support the performance of Commission functions. Staff from agencies may be temporarily assigned to the OSAPC on a full-time or part-time basis for the duration of an inquiry.

Where the home agency is responsible for policy areas relevant to an inquiry, and where the requested staff have specialist skills not available within OSAPC, the secondment will be at the home agency's expense. Secondments may be also requested at the home agency's expense where the Premier has requested that the Commission undertake more than one inquiry or commissioned report at a time. In other cases, assigned staff would be funded by OSAPC.

Arrangements associated with staff secondments should be agreed between the CE OSPAC and the CE of staff member's usual agency.

Agencies will make every effort to ensure assigned staff have the knowledge, expertise and skills sought by the Commission to support the performance of Commission functions. Temporary assignments contribute to building analytical capability as well as an understanding of the objectives of the Commission, consistent with the objects of the Commission.

Commissioned Reports

In addition to its primary role of undertaking inquiries into topics referred to it by the Premier, the Commission may be asked by the Premier to prepare a Commissioned Report.

Commissioned reports will generally be on narrower topics than inquiries, and the processes governing their conduct are less formal.

Procedures for undertaking any commissioned report will be determined by the Premier in consultation with the Commission on a case by case basis. This includes its timeframes, resourcing, whether it will involve public consultations, whether the report will make recommendations to the Government, and whether the report will be published on the Commission's website.

In undertaking commissioned reports, the Commission will be mindful of its scope and purpose as set out in PC046, particularly its principles of independence and rigour.

Publications

The Commission may publish statements, reports and guidelines to support the performance of its functions.

Exemptions

Exemptions to the requirements of this circular may be sought through the Premier.

Monitoring and compliance

The Commission will monitor and report annually on government's progress in implementing its responses to Commission reports through the annual report of the OSAPC.

Distribution and publication

This Circular will be published on the DPC website.

Document Control

Review number: 2
Review date: November 2023

Next review date: April 2026

For more information

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