



Australian Government
Department of the Prime Minister and Cabinet



Guidance on COAG Councils

Commonwealth-State Relations Branch
Department of the Prime Minister and Cabinet

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1. Introduction to the COAG council system

- 1.1. In December 2013 the Council of Australian Governments (COAG) agreed to a more streamlined council system that focused on its immediate priorities and reduced bureaucracy and unnecessary red tape.
- 1.2. The council system aligns with the Commonwealth's commitment to respect state sovereignty and allow them to get on with policy development and service delivery in areas they are responsible for. Councils are responsible for their own management, with minimal interference from COAG.
- 1.3. There are eight COAG councils:
 - [COAG Council on Federal Financial Relations](#);
 - [COAG Disability Reform Council](#);
 - [COAG Education Council](#);
 - [COAG Energy Council](#);
 - [COAG Health Council](#);
 - [COAG Industry and Skills Council](#);
 - [COAG Law, Crime and Community Safety Council](#); and the
 - [COAG Transport and Infrastructure Council](#).
- 1.4. The council system will be reviewed biennially by COAG to assess the alignment of councils with COAG priorities.

2. General operating principles

2.1. Terms of reference

- 2.1.1. Each council should have a terms of reference covering:
 - membership and operational arrangements;
 - the scope of its responsibilities; and
 - specific actions to progress these responsibilities over an 18 month period.
- 2.1.2. All councils must consider Indigenous and deregulation matters, noting these are standing items on the COAG agenda.
- 2.1.3. Councils should review their terms of reference at least every 18 months. Only material changes to terms of reference will require COAG agreement.
- 2.1.4. Councils are to make decisions and progress work within their remit but should raise issues with COAG that they consider genuinely require First Ministers' attention.

2.2. Commonwealth-State collaboration outside the COAG council system

- 2.2.1. Commonwealth and state ministers may also meet to deal with important areas of cooperation and decision-making outside the COAG council system. Ministers are able to meet on an ad hoc basis on specific issues.

2.3. Accountability

- 2.3.1. All councils are constituted under the auspices of COAG and are accountable, through their Chair, to COAG.
- 2.3.2. Councils are encouraged to develop work plans to guide their work.

2.4. COAG review of the council system

- 2.4.1. The council system will be reviewed biennially against COAG's priorities, including whether there is a continuing need for each council.
- 2.4.2. These reviews will:
 - check alignment with current and emerging COAG priorities;
 - ensure the council terms of reference remain consistent with COAG's priorities;
 - review progress of councils on issues referred to them by COAG; and
 - check progress against council responsibilities under Commonwealth and State legislation and funding agreements.
- 2.4.3. The COAG secretariat will advise council secretariats when the system is being reviewed. At that time, COAG may wish to ask councils to provide information on their work to inform the review.
- 2.4.4. COAG Senior Officials will consider review findings and recommendations. COAG will only consider proposals to change the number or scope of the councils.

2.5. Creating new councils and revoking existing councils

- 2.5.1. COAG may consider establishing a new council or revoking existing ones, based on advice from COAG Senior Officials; following a formal, written request to the Chair of COAG from Commonwealth ministers or other First Ministers; or as a result of COAG pursuing different priorities.

2.6. Membership and attendance

- 2.6.1. Chairing practices, with either Commonwealth chairs or rotating chairs, including the sequence of rotating chairs, are to be determined by the council and set out in their terms of reference.
- 2.6.2. No more than two ministers from each jurisdiction will be members of the councils, with each jurisdiction to nominate a senior minister from amongst them.
- 2.6.3. If the council will work on matters impacting New Zealand and/or the Australian Local Government Association (ALGA), representatives from both may be included in the membership. This will be a decision for each council.
- 2.6.4. Delegation of attendance is a matter for each council. Past practice has been that if a council member is unable to attend a meeting, they nominate a delegate to attend on their behalf. This applied equally to any member of a council, including the chair.

2.7. Voting and decision making

- 2.7.1. Councils will make decisions on the basis of consensus, wherever possible.
- 2.7.2. Where consensus cannot be reached, the council will make decisions on the basis of a majority of members. In these circumstances, jurisdictions in the minority are not

bound to implement the decisions that have been made. This is consistent with the COAG operational process.

2.8. Meetings

- 2.8.1. Councils should meet up to twice a year, with further work able to be conducted out-of-session.
- 2.8.2. COAG agreed the Council on Federal Financial Relations and the Disability Reform Council may need to meet more often than twice a year.
- 2.8.3. Councils should schedule their meetings with regard to the COAG standard meeting schedule.
- 2.8.4. As COAG has agreed to meet twice a year, usually around March/April and October/November, they should aim to align their work schedules and meetings to feed into these meetings, as required. For example, councils are encouraged to schedule meetings no later than February and September.
- 2.8.5. The COAG secretariat will advise council secretariats of expected deviations to the usual COAG meeting schedule.
- 2.8.6. Councils are strongly encouraged to use the TelePresence network for meetings wherever possible.

3. Council governance structure

- 3.01. Councils should establish effective operational arrangements to ensure they achieve their priorities and responsibilities.
- 3.02. This includes an annual stocktake of how effectively they are supporting COAG, fulfilling requirements under their terms of reference and this guidance, and how this could be enhanced.
- 3.03. Councils will generally be supported by a senior officials group which will develop and progress issues for upcoming council meetings.
- 3.04. Items of a procedural or heavily administrative nature should be delegated to officials to determine, or dealt with out-of-session.

3.1. Secretariat and working groups

- 3.1.1. Each council should determine and establish the secretariat and/or working group arrangements that best suit its requirements, noting that supporting architecture should be kept to a strict minimum.

4. Branding of councils

4.1. Council websites

- 4.1.1. Each council must have an internet presence. This should be updated regularly, making available key information, such as:
 - its terms of reference;
 - outcomes of meetings and decisions; and

- links to relevant documents and the COAG website.
- 4.1.2. Websites for former councils that have been revoked should be removed or archived.

5. Roles and responsibilities

5.1. Role of the COAG secretariat

- 5.1.1. The COAG secretariat is the central point of contact for councils.
- 5.1.2. The secretariat is provided by the Department of the Prime Minister and Cabinet.
- 5.1.3. Councils can contact the secretariat by emailing queries to coagcommonwealth@pmc.gov.au

5.2. Council responsibilities under legislation and policies

5.2.1. Provision of data

- 5.2.1.1. Councils have extensive responsibilities for providing data in a timely way in relation to national agreements, some national partnership agreements and for the Report of Government Services (ROGS).
- 5.2.1.2. Council secretariats should seek to ensure these responsibilities are fulfilled expeditiously and efficiently. This is critical to enable bodies such as the Steering Committee for the ROGS to fulfil the roles given to them by COAG.

5.2.2. Regulatory Impact Statements (RISs)

- 5.2.2.1. Council secretariats are also responsible for setting up processes to strengthen the compliance and transparency of COAG RISs.
- 5.2.2.2. Councils are required to prepare COAG RISs for all regulatory proposals that would affect business or impact on competition.
- 5.2.2.3. The Best Practice Regulation Guide is designed to ensure that regulatory processes at the national level, including RISs, are consistent with principles of best-practice agreed by COAG.
- 5.2.2.4. The guide sets out the role of the Commonwealth Office of Best Practice Regulation (OBPR) in assisting councils and national (intergovernmental) regulatory bodies to prepare RISs that comply with best-practice regulations.
- 5.2.2.5. The OBPR should be consulted early about whether a RIS should be prepared. It will report annually on compliance with these requirements to COAG Senior Officials, who will initiate any follow up action that is considered necessary.
- 5.2.2.6. The Best Practice Regulation Guide can be found at www.coag.gov.au/sites/default/files/coag_documents/coag_best_practice_guide_2007.pdf and the Office of Best Practice website at www.dpmc.gov.au/resource-centre/regulation/best-practice-regulation-guide-ministerial-councils-and-national-standard-setting-bodies.

5.2.3. Intellectual Property (IP)

- 5.2.3.1. Councils may commission or develop materials that require IP coverage.

- 5.2.3.2. Generally, the jurisdiction providing the secretariat services or commissioning the work would decide the terms of any IP ownership.
- 5.2.3.3. Joint ownership of IP materials should be avoided and the terms set out and agreed by the council prior to work commencing.
- 5.2.3.4. For further information and the rights associated with the different types of IP refer to: <https://www.ipaustralia.gov.au/understanding-ip/getting-started-with-ip/types-of-ip>.

5.2.4. Record keeping and classification

- 5.2.4.1. Council secretariats should meet the recordkeeping and archives legislation that applies in the jurisdiction in which it is based. Where a council is disbanded, secretariats should ensure that there is an appropriate record of its existence and activities.
- 5.2.4.2. Documents prepared for councils and officials should be treated as sensitive, unless otherwise agreed by either group, and only distributed on a strict need to know basis.
- 5.2.4.3. Where there is an expectation that a document will be made public (for example, communiqués or public records of meetings), all members should be advised early in the preparation of the document.
- 5.2.4.4. If a member receives a request for a document to be made public (either through a Freedom on Information (FOI) request, a request from a Royal Commission or some other avenue), all members of the council should be consulted regarding release of the document. For further information on FOI requirements, refer to the relevant jurisdiction's FOI legislation.