

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Legal status and governance of the National COVID-19 Coordination Commission

Senator: Patrick

Question reference number: 0096

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 2

Question:

1. Is the NCCC a purely advisory body or a decision-making body?
2. What decisions is it authorised to make and under what delegations?
3. Please confirm whether or not the Commission is one of the following under the PGPA Act
 - a. Non-corporate Commonwealth entity?
 - b. Corporate Commonwealth?
 - c. Commonwealth company?
4. If none of the above, what is its status under the PGPA Act?
5. NCCC is listed on the [PMC org chart](#) under the Secretary, with the Chair of the Commission on the same 'level' as Deputy Secretaries.
 - a. Does the NCCC have separate legal identity or is it treated as a division within PMC?
 - b. Does the Chair of the Commission have the same status within the Department as a Deputy Secretary?
 - c. If not, how is the role different?
 - d. Does the Chair report to the Secretary and are NCCC submissions to the Minister cleared by the Secretary or do they go directly to the Prime Minister's Office?
6. Are the operations of the NCCC and the actions of each Commissioner subject to the following Acts?
 - a. Public Governance, Performance and Accountability Act
 - b. Public Service Act
 - c. Freedom of Information Act
 - d. Foreign Influence Transparency Scheme Act
 - e. Archives Act
7. If so, please outline how the NCCC is ensuring compliance, and state the date on which relevant policies and procedures adhering to the relevant Act were brought into place.

8. What is the process for NCCC documents becoming cabinet in confidence?
9. Are the Commissioners engaged as consultants or employees? If consultants, why are they listed on the organisation chart?

Answer:

The National COVID-19 Coordination Commission (NCCC) is purely an advisory body. The NCCC is not a decision making body.

The NCCC has been set up as a division within the Department of the Prime Minister and Cabinet (PM&C), which is a Non-corporate Commonwealth entity.

The NCCC is a division within PM&C. Unlike Deputy Secretaries, Mr Neville Power is employed as a contractor not as a member of the Senior Executive Service. He does not participate in PM&C Executive Board meetings and does not have responsibilities in relation to the administration of the Department more broadly.

The Chair, Mr Power, works closely with, and consults, the Secretary of PM&C, Mr Phil Gaetjens, who is also involved in NCCC business through his role as a member of the NCCC Executive Board. NCCC advice is not cleared by the Secretary.

As a division of PM&C, the NCCC is subject to all the same legislative requirements as PM&C. In accordance with clause 12.1 of Commissioners' contracts, they must perform services in compliance with all applicable legal (including statutory and regulatory) and Australian Government policy requirements.

The NCCC is complying with existing departmental policies by following internal guidance and procedures and has done so since the NCCC's inception.

The Cabinet Handbook sets out the guiding principles of cabinet confidentiality, collective responsibility and solidarity. It is essential that the confidentiality of cabinet documents is maintained, including draft Cabinet documents, documents which reveal cabinet deliberations, and documents which are prepared to brief Ministers on matters proposed for Cabinet consideration.

The Commissioners are engaged as contractors.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Taskforces

Senator: Patrick

Question reference number: 0099

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

1. List all ‘taskforces’ or ‘appendages’ to the NCCC, including dates they were established and members.
2. Can you confirm whether any or all of these members have signed conflict of interest declarations.

Answer:

1. Refer to previous Question on Notice 0006 for Working Group membership.

The Industrial Relations Working Group was commissioned on 8 April 2020.

The Manufacturing Taskforce was established on 1 April 2020.

The Charity, Philanthropy and Fundraising Advisory Group first met on 17 April 2020 and was formally announced on 15 May 2020.

The Commission also brings relevant experts together in groups without formal constitution to resolve issues quickly. For example, a utilities group collated examples of emerging practices to allow essential service workers to work safely and efficiently while maintaining social distancing.

2. Refer to Question on Notice 0016.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Mr Andrew Liveris

Senator: Patrick

Question reference number: 0100

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 2

Question:

1. Mr Andrew Liveris is leading the manufacturing commission taskforce. He is also listed on the website as a ‘special advisor’ to the Commission, but no other taskforce member is listed.
2. Is Mr Liveris being paid for this role? If so, how much and how was this determined?
3. Who selected Mr Liveris for this role?
 - a. Was it a decision of the Chair of the NCCC?
 - b. Was it a decision of the NCCC as a whole?
 - c. Was it a decision of the PM?
4. Did the PM, PMO or PMC have any input or discussion about selection of Mr Liveris for any role with the NCCC?
 - a. If so, what input or discussion and when did this occur?
1. Was there any sort of procurement or recruitment process for this role?
 - a. If so when did it occur and please outline its nature.
2. Mr Liveris is a board member of Saudi Aramco, the Saudi Arabian state owned oil company.
 - a. Was the PMC or NCCC aware of this role when Mr Liveris was selected for his current role?
 - b. Has the NCCC or PMC considered whether this role requires Mr Liveris to register under the Foreign Influence Transparency Scheme?
 - c. Did NCCC or PMC consult the Department of Foreign Affairs and Trade for advice before Mr Liveris’ appointment?
 - d. Given Saudi Arabia is the biggest oil exporter and through OPEC operates in a position of enormous market power, and given gas prices are heavily associated with oil prices, has and will Mr Liveris recuse himself of all matters relating to oil and gas? If not, why not?
7. Mr Liveris has worked as a senior advisor to the White House, during which time he made public statements with the President of the United States such as “I bleed American” and “America First” and “Make America Great Again”.
 - a. Was the PMC or NCCC aware of such statements when Mr Liveris was selected for his current role?
 - b. How are such statements consistent with a perception of impartiality and service of Australia?

- c. Is PMC confident that Mr Liveris can act in the national interest when he has his purported primary allegiance to a foreign nation?
- d. Has the NCCC or PMC considered whether this role requires Mr Liveris to register under the Foreign Influence Transparency Scheme?

Answer:

Mr Andrew Liveris did not receive a salary. The Department of Prime Minister and Cabinet may reimburse Mr Liveris for work-related travel costs associated with performing services for the Commission. To date, Mr Liveris has received no reimbursement.

Mr Liveris was invited by the Chair, Mr Neville Power, to become a Special Adviser to the Commission on manufacturing. Mr Liveris' previous roles internationally on manufacturing were known to the Commission at the time of his invitation to take up the role of Special Adviser.

Mr Liveris was asked to look at the future prospects of manufacturing in Australia and provide advice to the Commission. The work was done to provide support to Government on Australia's economic recovery coming out of the COVID-19 pandemic.

Mr Liveris signed a private interest disclosure statement. The obligations under the Foreign Influence Transparency Scheme arise irrespective of the Commissioner's role or position within the Commission, and would be the same for working group members.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Premiers first knowledge of the establishment of the National Cabinet

Senator: Patrick

Question reference number: 0101

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Was the establishment of National Cabinet something that the Prime Minister raised with the Premiers and Chief Ministers prior to the COAG meeting on 13 March? If so, when was the idea first raised with the Premiers?

Answer:

Refer to Questions on Notice 0102 and 0103.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Establishment of National Cabinet reference in 13 March 2020 COAG communique

Senator: Patrick

Question reference number: 0102

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

The establishment of National Cabinet was not referenced in the formal COAG communique issued after the meeting on 13 March. Why wasn't it mentioned in the communique?

Answer:

The decision of the Prime Minister, the Hon Scott Morrison MP, Premiers and Chief Ministers to establish the National Cabinet occurred on 13 March 2020.

The announcement of the establishment of National Cabinet was made at the COAG press conference.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Formal record of the establishment of the National Cabinet

Senator: Patrick

Question reference number: 0103

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

How was the agreement between the PM, Premiers and Chief Ministers to establish National Cabinet formally recorded? Are there minutes or other records of the COAG meeting aside from the public communique on 13 March?

Answer:

The Prime Minister, the Hon Scott Morrison MP, announced on 13 March 2020 at the Council of Australian Governments press conference, that he, the Premiers and Chief Ministers that day decided to establish the National Cabinet to deal with the national response to COVID-19. Further details can be found in the COAG Press Conference transcript on the Prime Minister's website.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Correspondence related to the operation of the National Cabinet

Senator: Patrick

Question reference number: 0104

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Was there a subsequent exchange, after the 13 March COAG meeting, of correspondence between the Prime Minister and the Premiers/Chief Ministers setting out how national cabinet would operate?

Answer:

The National Cabinet agreed on the way it would operate.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Prime Minister's awareness of mechanisms and processes involved in establishing the National Cabinet

Senator: Patrick

Question reference number: 0106

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Has the Department of the Prime Minister and Cabinet advised the PM on the mechanics and processes involved in establishing national Cabinet?

Answer:

The Department of the Prime Minister and Cabinet provides ongoing advice to the Prime Minister, the Hon Scott Morrison MP, about Cabinet and Committee arrangements.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: National Cabinet members that are Federal Ministers

Senator: Patrick

Question reference number: 0107

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Aside from the Prime Minister, what other Federal Ministers are members of National Cabinet. Is the Deputy Prime Minister a member? Is the Treasurer a Member? Is the Minister for Health who is also Minister assisting the PM for the Public Service and Cabinet a Member?

Answer:

Membership of the National Cabinet was announced by the Prime Minister, the Hon Scott Morrison MP, on 13 March 2020.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Date that the Governor General was advised on the permanent membership of the National Cabinet

Senator: Patrick

Question reference number: 0108

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

On what day was the Governor General advised on the permanent membership of the National Cabinet?

Answer:

Refer to Question on Notice 0105.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Jurisdictional right of veto over decision of the National Cabinet

Senator: Patrick

Question reference number: 0111

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Does any jurisdiction have a right of veto over decisions of the National Cabinet?

Answer:

The National Cabinet does not derogate from the sovereign authority and power of the Commonwealth or any state or territory government.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet
Topic: Decisions of the National Cabinet

Senator: Patrick

Question reference number: 0112

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Are decisions of the National Cabinet binding of the States and Territories?

Answer:

See Question on Notice 0111.

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ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Premiers and Chief Ministers formal acceptance of obligations

Senator: Patrick

Question reference number: 0113

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Have the Premiers and Chief Ministers formally accepted obligations in terms of collective Cabinet solidarity, collective solidarity, and collective confidentiality concerning National Cabinet deliberations? How have they given any such undertakings? Are there written undertakings in respect to the operation of National Cabinet?

Answer:

By the agreement of all members, the National Cabinet is constituted and operates according to longstanding conventions of Cabinet government, including of collective responsibility, solidarity, and confidentiality.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Positions and records of decisions of the National Cabinet

Senator: Patrick

Question reference number: 0114

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Who serves as Secretary to the National Cabinet and how are the National Cabinet's decisions recorded and disseminated?

Answer:

The Cabinet Secretary serves as Secretary to the National Cabinet. The National Cabinet's decisions are recorded and disseminated in accordance with the guidance provided in the Cabinet Handbook.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Records of deliberations of the National Cabinet

Senator: Patrick

Question reference number: 0115

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Are the deliberations of the National Cabinet, including discussions undertaken through tele-conferencing and videoconferencing, recorded and/or transcribed? If not, what arrangements are in place to ensure that National Cabinet discussions are not recorded and/or transcribed?

Answer:

The Cabinet Handbook provides guidance on the recording of discussions at Cabinet and Cabinet committees.

Senate Select Committee on COVID-19
ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet
Topic: Mr Neville Power's travel arrangements

Senator: Gallagher

Question reference number: 0119

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

With reference to the statement to media by the Department of Prime Minister and Cabinet on 13 May 2020 that “in developing and executing Mr Power’s contract, the PM&C estimated travel to and from Canberra valued at approximately \$6000 per return trip each week”:

- a. how was the estimate made;
- b. did Mr Power tell the Department of Prime Minister and Cabinet he expected to travel between Perth and Canberra weekly;
- c. when did the Department of Prime Minister and Cabinet learn Mr Power is not travelling between Perth and Canberra weekly; and
- d. will Mr Power be required to repay any estimated travel costs for travel to and from Canberra if he travels less than once a week to Canberra during his appointment as Chair.

Answer:

- a. Please refer to the letter of clarification of evidence from Ms Stephanie Foster, Deputy Secretary, received by the Senate Select Committee on COVID-19 on 14 May 2020.
- b. The frequency of travel was determined based on the Department of the Prime Minister and Cabinet’s (PM&C) assessment of the expected needs of the role.
- c. Mr Power has consistently kept PM&C informed on his travel.
- d. No, Mr Power’s contract is for a monthly payment for the duration of the term.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Prime Minister's advice on the Australian Local Government Association the Council of Australian Governments

Senator: Gallagher

Question reference number: 0126

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

When did the Prime Minister tell the President of the Australian Local Government Association the Council of Australian Governments would be abolished and local government would not be represented in National Cabinet.

Answer:

The Prime Minister, the Hon Scott Morrison MP, announced on 13 March 2020 at the Council of Australian Governments (COAG) press conference that he, the Premiers and Chief Ministers that day decided to establish the National Cabinet to deal with the national response to COVID-19 and that the National Cabinet would be made up of the Prime Minister, Premiers and Chief Ministers.

On 29 May 2020, the Prime Minister announced immediately after a meeting of the National Cabinet that members agreed that day to continue National Cabinet, form the National Federation Reform Council and cease the Council of Australian Governments. The Prime Minister wrote to the President of the Australian Local Government Association (ALGA) on 9 June 2020 confirming these decisions and welcoming ALGA's continued participation in intergovernmental relations processes through its membership of the National Federation Reform Council.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Committees of Cabinet

Senator: Gallagher

Question reference number: 0127

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

What is the status of the following bodies in relation to Cabinet, that is, are they committees of Cabinet or do they have some other status in relation to Cabinet, and if so, what is that status:

- a. National Federation Reform Council;
- b. National Cabinet;
- c. Council on Federal Financial Relations;
- d. National Federation Reform Council Taskforces;
- e. Expert advisory groups to National Cabinet Reform Committees; and
- f. Expert advisory groups to National Cabinet.

Answer:

See answers to Questions on Notice 0188 and 0189.

Senate Select Committee on COVID-19

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet

Topic: Cabinet's requirement to endorse and/or alter decisions

Senator: Gallagher

Question reference number: 0128

Type of question: Written

Date set by the committee for the return of answer: 19 June 2020

Number of pages: 1

Question:

Is Cabinet required to endorse and/or can Cabinet alter a decision of the following:

- a. National Federation Reform Council;
- b. National Cabinet;
- c. Council on Federal Financial Relations;
- d. National Federation Reform Council Taskforces;
- e. Expert advisory groups to National Cabinet Reform Committees; and
- f. Expert advisory groups to National Cabinet.

Answer:

See Question on Notice 0127.