



Intended for	All Ministers All Chief Executives Chief Parliamentary Counsel Clerk of the House of Representatives All Senior Private Secretaries All Private Secretaries All officials involved in the preparation of legislation
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Legislation Guidelines: Cabinet Requirements and Expectations

Introduction

- 1 The *Legislation Guidelines* (2021 edition) are the government's key point of reference for assessing whether draft legislation conforms to accepted legal and constitutional principles.
- 2 The *Legislation Guidelines* set out guidance on matters of legislative design and quality, and on matters fundamental to the rule of law in New Zealand. The guidelines are a key part of government efforts to promote quality legislation and transparency about the exercise of law-making power. They are designed to be used from early in the policy development process.

Requirements for Cabinet papers

Policy papers

- 3 A Cabinet or Cabinet committee paper seeking approval for policy that will involve the use of legislation must:
 - 3.1 identify, and set out the reasons justifying, each departure from the default principles in the guidelines that is known when the paper is developed; and
 - 3.2 note, under "legislative implications", whether:
 - 3.2.1 any further guidelines issues are likely to arise during drafting; and
 - 3.2.2 whether officials have worked or will work with the Legislation Design and Advisory Committee (LDAC) on the proposal (see paragraph 10).
- 4 The guidelines' default principles are set out in italics within each chapter. A checklist consolidating all the default principles is available on the LDAC's [website](#).
- 5 The [CabGuide](#) has more about Cabinet expectations for how the guidelines should be considered in the development of policy papers.

Legislation papers

- 6 A Cabinet or Cabinet committee paper seeking permission to introduce a Bill or submit regulations to the Executive Council must:
- 6.1 indicate whether the Bill or regulations comply with the guidelines;
 - 6.2 identify whether any aspects of the draft Bill or regulations depart from the default principles in the guidelines; and
 - 6.3 set out the reasons that justify each departure.

How departments should use the *Legislation Guidelines*

- 7 When legislation is identified as an option for implementing policy decisions, officials should:
- 7.1 consider the guidelines as a whole at the outset of policy development;
 - 7.2 continue to refer to the guidelines as the policy develops and new issues arise;
 - 7.3 use the [factors](#) to consider in deciding whether to consult with the LDAC and the guidelines [checklist](#) to track and set down the department's views on issues arising under the guidelines; and
 - 7.4 use the guidelines in preparing advice for Ministers and Parliament, so that they are informed about the principles of good law-making and the significance of any proposed departure from the guidelines.
- 8 Compliance with paragraph 7 will also help officials to support Ministers in meeting the requirements in paragraphs 3 and 6.
- 9 Chief executives should ensure that officials involved in the development of policy and legislation:
- 9.1 understand the scope and function of the *Legislation Guidelines*; and
 - 9.2 meet the requirements and expectations set out in this circular.

How the Legislation Design and Advisory Committee can assist

- 10 The *Legislation Guidelines* have been prepared by the LDAC. The LDAC can advise departments on how the guidelines might apply to, or be implemented in, specific proposals. Normally, the LDAC engages with departments on Bills that have been identified for referral to the LDAC through the annual legislation programme. However, the LDAC is also available to advise on other Bills, and can be flexible in its processes for urgent legislation if needed. See the LDAC's website for more information, including the [LDAC's contact details](#).

How the *Legislation Guidelines* relate to requirements for disclosure statements

- 11 For most government Bills and substantive Supplementary Order Papers, departments are required to prepare disclosure statements that include information about significant or unusual legislative provisions for most government Bills and substantive Supplementary Order Papers. Some information in disclosure statements will be similar to information contained in Cabinet or Cabinet committee papers about departures from the default principles in the *Legislation Guidelines*. This information is important to provide transparency to the public about the exercise of law-making power and inform the work of select committees on Bills. The requirements for disclosure statements are set out in [Disclosure Requirements for Government Legislation](#) [Cabinet Office circular CO (13) 3].

The *Legislation Guidelines* (2021 edition) replace the 2018 edition

- 12 The *Legislation Guidelines* (2021 edition) replace the 2018 edition. The main updates were made to Chapter 13 (Interpretation and application of legislation) and Chapter 14 (Delegating law-making powers) to reflect changes made by the Legislation Act 2019 and Secondary Legislation Act 2021.

Publication

- 13 The *Legislation Guidelines* are available on the LDAC [website](#).

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