



# Protocol for proactive release of government information to Members of the Legislative Council

June 2023

Tabled, by leave,  
by Minister Graham  
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Clerk of the Parliaments  
29 / 6 / 2023



# 1 Scope and purpose

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- 1.1 The intention of this Protocol is to:
- facilitate the efficient provision of government information to Members of the Legislative Council (**Members**)
  - avoid the necessity of pursuing an order for papers under Standing Order 52 of the Legislative Council (**SO 52**)
  - ensure the efficient and effective use of public resources.
- 1.2 This Protocol is not intended to limit Members in any way in considering whether to seek an order for papers, or from making inquiries with Ministers about alternative ways of accessing government information or the scope of a proposed order for papers.

# 2 Regular briefings

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- 2.1 Briefings will be held for all Members during the first sitting week of a two-week sitting block about government initiatives, policies, programs and decisions.
- 2.2 Briefings will generally be held on Wednesdays during Lunch.
- 2.3 A cross bench or Opposition Member may request that a certain sub-topic be addressed in a regular briefing preferably by emailing the Government Whip in advance, or raising a request at the Tuesday evening Business Committee meeting.
- 2.4 Briefing topics are at the discretion of the Government.
- 2.5 Whips will arrange briefings with the relevant Minister, or Ministers, in consultation with the Leader or Deputy Leader of the Government in the Legislative Council.
- 2.6 Sufficient time must be provided for the preparation of a briefing where a briefing sub-topic has been suggested by a Member.

# 3 Special briefings

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- 3.1 Briefings on a specific issue may be arranged for one or more Members and their staff at the Members' request (**Special briefings**).

## Public information

- 3.2 Special briefings where information is not confidential will take place at an agreed time and location (**Special briefing – public**).
- 3.3 A cross bench or Opposition Member may request a briefing on a specific issue by emailing the Government Whip ahead of the Tuesday evening Business Committee meeting.
- 3.4 The Government Whip will arrange a briefing with the relevant Minister or Ministers in consultation with the Leader or Deputy Leader of the Government in the Legislative Council.

## Confidential information

- 3.5 Special briefings where information is confidential will be held on a case-by-case basis and will take place at an agreed time and location (**Special briefing – confidential**).
- 3.6 A cross bench or Opposition Member may request a briefing on a specific issue by emailing the Government Whip ahead of the Tuesday evening Business Committee meeting.

- 3.7 The Government Whip will arrange a briefing with the relevant Minister or Ministers in consultation with the Leader or Deputy Leader of the Government in the Legislative Council.
- 3.8 Only Members may attend Special briefings involving confidential information.

## 4 Special requests for documents

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- 4.1 A cross bench or Opposition Member may make a special request for a document or documents relevant to a briefing (**Special request**).
- 4.2 The cross bench or Opposition Member may make a Special request by emailing the Government Whip before the Business Committee Meeting.
- 4.3 A Special request must be for specific information and must:
  - a. specify a limited date range
  - b. relate to a well-defined subject matter (i.e. a government initiative, policy, program or decision)
  - c. refer to specific documents, where possible, or categories of key documents, such as briefs, reports and documents recording reasons for decisions. Requests for 'all documents' or 'all correspondence' relating to a topic should be avoided
  - d. not seek documents concerning ongoing investigative functions of government agencies and independent investigative bodies until such investigations are complete.
- 4.4 The Government Whip will arrange a meeting with the relevant Minister or Ministers in consultation with the Leader or Deputy Leader of the Government in the Legislative Council to discuss the Special request if required.

### Process for responding to Special requests

- 4.5 Special requests should be responded to as follows:
  - a. An initial response in the form of a written or verbal briefing should be provided within 7 days of the Business Committee meeting at which it was tabled. The written or verbal briefing should include:
    - i. a description of the information held that is relevant to the request
    - ii. if it is estimated that more than 14 days would be required to provide the information sought, an estimate of the time required to provide the information, and/or
    - iii. suggestions as to amendments to the scope of the request, if any (for example, to capture key documents relevant to the government initiative, policy, program or decision).
  - b. Other than as provided for under paragraph 4.5(a)(ii), information contained in a document that is relevant to the request should be tabled as soon as practicable and within 14 days of the date of the request if that day is a sitting day, or on the next available sitting day.
  - c. Ministers should table key documents (such as briefs, reports and documents recording the reasons for decisions, documents that evidence a decision or key step in an administrative process, or statement of a policy position or approach to be taken) in response to a request.
  - d. Where more than 14 days is required to table the information sought and an estimate is provided under paragraph 4.5(a)(ii), the Member and the Minister should use their best endeavours to agree on the timeframe for tabling.



- 4.6 Documents which may be tabled in response to a Special request must be held by a Minister or a NSW government agency that is subject to Ministerial direction and control, and be lawfully required to be produced in response to an order under SO 52.
- 4.7 Ministers may respond to a special request by creating and tabling a new record.
- 4.8 A Special request may be referred to another Minister for response.
- 4.9 Personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* will not generally be tabled in response to a special request and should be redacted where reasonably practicable.
- 4.10 Where a document the subject of a special request contains confidential information other than personal information (such as commercial-in-confidence information), the Government will consider whether it is possible to table the information voluntarily, or whether third-party consultation and consent is required.
- 4.11 Where a Minister is unable to table a document voluntarily in response to a special request made under this Protocol for reasons of confidentiality and/or privilege, the Minister will:
- a. advise the cross bench or Opposition Member expeditiously, and
  - b. work constructively with the Member to formulate an agreed and targeted order for the relevant document(s) under SO 52.

## 5 Contacts

Government Whip in the LC

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