

Cabinet and Executive Council

This session will explore what are potentially Cabinet and Executive body documents and some of the requirements for considering the exemption in clause 1.

What constitutes an Executive body

An Executive body includes:
Cabinet;
a committee of Cabinet;
a subcommittee of cabinet; or
Executive Council.

The Cabinet of Western Australia

Consists of the Premier and all Ministers meeting together under the Chairmanship of the Premier.

What type of issues usually require Cabinet approval?

The Executive Council

Is the supreme decision making body of government and consists of the Governor (as Chair) and all Cabinet Ministers.

Examples of common Executive body documents

- Cabinet Submissions, Agendas, Decision Sheets, Summary Sheets, Briefing Notes, Consultation Summaries, Agency Comment Sheets.
- Submissions, Agendas or Minutes of a Cabinet Committee or subcommittee.
- Executive Council Agendas, Minutes and Explanatory Notes.
- Any drafts or copies of these documents held by your agency.
- Any documents or information or recommendations requested by Cabinet and provided by your agency for Cabinet.
- Any briefing or information provided to your Minister for the purposes of a Cabinet Submission.

Confidentiality

Cabinet and Executive Council confidentiality of documents, discussions and decisions is a long established principal.

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Exemptions

- (1) Matter is exempt matter if its disclosure would reveal the deliberations or decisions of an Executive body, and, without limiting that general description, matter is exempt matter if it—
- (a) is an agenda, minute or other record of the deliberations or decisions of an Executive body;
 - (b) contains policy options or recommendations prepared for possible submission to an Executive body;
 - (c) is a communication between Ministers on matters relating to the making of a Government decision or the formulation of a Government policy where the decision is of a kind generally made by an Executive body or the policy is of a kind generally endorsed by an Executive body;
 - (d) was prepared to brief a Minister in relation to matters —
 - (i) prepared for possible submission to an Executive body; or
 - (ii) the subject of consultation among Ministers relating to the making of a Government decision of a kind generally made by an Executive body or the formulation of a Government policy of a kind generally endorsed by an Executive body;
 - (e) is a draft of a proposed enactment; or
 - (f) is an extract from or a copy of, or of part of, matter referred to in any of paragraphs (a) to (e).

Clause 1(1)

(1) Matter is exempt matter if its disclosure would reveal the deliberations or decisions of an Executive body, and, without limiting that general description, matter is exempt if it-

If it is not a straight forward Executive body document how do you prove that it is exempt matter?

Clause 1(1)(a)

Is an agenda, minute or other record of the deliberations or decisions of an Executive body.

Clause 1(1)(b)

Contains policy options or recommendations prepared for possible submission to an Executive body.

Clause 1(1)(c)

Is a communication between Ministers on matters relating to the making of a Government decision or the formulation of a Government policy where the decision is of a kind generally made by an Executive body or the policy is of a kind generally endorsed by an Executive body.

Clause 1(1)(d)

- (d) Was prepared to brief a Minister in relation to matters-
 - (i) prepared for possible submission to an Executive body; or
 - (ii) the subject of consultation among Ministers relating to the making of a Government decision of a kind generally made by an Executive body or the formulation of a government policy of a kind generally endorsed by an Executive body.

Clause 1(1)(e & f)

- (e) Is a draft of a proposed enactment: or
- (f) Is an extract from or a copy of, or part of, matter referred to in any of paragraphs (a) to (e).

Limitations Clause 1(2)

- (2) Matter that is merely factual, statistical, scientific or technical is not exempt matter under subclause (1) unless-
 - (a) its disclosure would reveal any deliberation or decision of an Executive body; and
 - (b) the fact of that deliberation or decision has not been officially published.

Clause 1(3 & 4)

- 1(3) The original matter, came into existence before the commencement of section 10 and at least 15 years have elapsed.
- 1(4) The original matter, came into existence after the commencement of section 10 and at least 10 years have elapsed since it or the original matter came into existence.

Clause 1(5)

Matter is not exempt by reason of the fact that it was submitted to an Executive body for its consideration or is proposed to be submitted if it was not brought into existence for the purpose of submission for consideration by the Executive body.

Discussion and Questions

- Is there anything that needs further clarification.
- Any questions.