



Australian Government
**Australian Radiation Protection
and Nuclear Safety Agency**



Roles and Expectations for Advisory Bodies

Endorsed by the members of the Radiation Health and Safety
Advisory Council, the Radiation Health Committee and the Nuclear
Safety Committee in June 2018

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1. Introduction

1.1 Background

The three advisory bodies to the CEO of ARPANSA; the Radiation Health and Safety Advisory Council (**Council**), the Radiation Health Committee (**RHC**) and the Nuclear Safety Committee (**NSC**), are established under sections 19, 22 and 25 of the [Australian Radiation Protection and Nuclear Safety Act 1998 \(the Act\)](#). The functions and operations of the advisory bodies are outlined under Part 4 of the Act and Part 3 of the [Australian Radiation Protection and Nuclear Safety Regulations 1999](#) (the Regulations).

The aim of this document is to:

- provide an overview of the purpose and function of the advisory bodies; and
- outline procedural arrangements.

2. Functions and operations of the advisory bodies

2.1 Functions

The functions of the Council and committees are summarised below:

1. **The Council** in relation to radiation protection and nuclear safety: identify emerging issues; examine matters of major concern to the community; consider the adoption of recommendations, policies, codes and standards; and advise and report to the CEO at the CEO's request or as Council considers appropriate (see Part 4, section 20 of the Act).
2. **The RHC** in relation to radiation protection: advise the CEO and the Council; develop policies and prepare draft publications for the promotion of uniform national standards; formulate draft national policies, codes and standards for consideration by the Commonwealth, the States and the Territories; from time to time review national policies, codes and standards to ensure that they continue to substantially reflect world best practice; and consult publicly in the development and review of such policies, codes and standards (see Part 4, section 23 of the Act).
3. **The NSC** in relation to nuclear safety and the safety of controlled facilities: advise the CEO and the Council; review and assess the effectiveness of standards, codes, practices and procedures; develop detailed policies and prepare draft publications to promote uniform national standards; and report to the CEO on matters relating to nuclear safety and the safety of controlled facilities (see Part 4, section 26 of the Act).

While the Act establishes the Council as an advisory body to the CEO, the functions have also been formulated in a way that allows Council to independently define parts of its work program, provided it relates to radiation protection and nuclear safety. The recipient of the 'products' of the Council's work and deliberations is the CEO, who reports on the activities of Council to the Minister in the Annual Report of the CEO of ARPANSA. The RHC and NSC perform their work at the request of the CEO, who reports on the committees' activities in the Annual Report.

Australian jurisdictions support the role of RHC under the ARPANS Act, through the 1999 Council of Australian Government (COAG) agreement to promote national uniformity, given their constitutional responsibility and authority for radiation protection legislation in their respective jurisdictions.

2.2 Membership

The CEO is a statutory member of all advisory bodies. Other members are appointed for terms of up to three years. Members and Chairs can be reappointed. Although not required by the Act, appointments may be staggered so that there is continuity of relevant knowledge, skills and experience, as well as continuity in the implementation of the work program.

Members of Council (other than the CEO) are appointed by the relevant Minister, and members of the committees are appointed by the CEO, all by written instruments.

The Act requires members of the advisory bodies to have the necessary expertise and knowledge to provide high quality advice to the CEO and be able to discharge all responsibilities associated with membership effectively and efficiently. The Act also requires that one member of each advisory body must be a *person to represent the interests of the general public*.

For Council, broad representation from a wide range of professional backgrounds, skill sets and qualifications is sought in order to enable Council to generate independent, informed and objective advice of high quality on a broad range of issues. The Act stipulates (Part 4, Section 21 of the Act) that, in addition to the CEO and a person to represent the interests of the general public, one member must be *nominated by the Chief Minister for the Northern Territory*, and two must be *radiation control officers*. Up to eight *other members* may be appointed. ARPANSA will invite nominations of radiation control officers from the States and Territories, seek nominations from the Chief Minister for the Northern Territory and invite nominations of a member to represent the interest of the general public and 'other' members.

The RHC comprises (Part 4, Section 24 of the Act), in addition to the CEO and a person to represent the interests of the general public, *radiation control officers* to represent each State and Territory. Radiation control officers are expected to have their jurisdictions' authority to engage in discussions and provide advice for promoting national uniformity. The Act also requires one member of the RHC to be a *representative of the NSC*, and allows up to two *other members*. ARPANSA will invite nominations of all members of the RHC.

The NSC comprises (Part 4, Section 27 of the Act), in addition to the CEO and a person to represent the interests of the general public, a person to *represent the local government or administration of an area affected by a matter related to the safety of a controlled facility*. The Act also requires one member of NSC to be a *representative of the RHC*, and allows up to eight *other members*. Under Section 27(5) of the Act, the expertise or knowledge required of NSC members must include nuclear safety, other industrial or safety related regulation or a related area. ARPANSA will invite nominations of all members of the NSC.

The recruitment process commences six to nine months prior to the end of a term. Before appointing a member to RHC and NSC, the CEO must consult the Council as well as such consumer and environmental groups as the CEO considers appropriate. Likewise, before appointments to Council are made, the Minister must consult the CEO as well as such consumer and environmental groups as the Minister considers appropriate. The Minister must appoint a Chair for Council and the CEO must appoint a Chair for each of the committees.

A member may resign by giving written notice to the Minister (in the case of Council) or the CEO (in the case of the committees).

2.3 The member to represent the interests of the general public

The member representing the interests of the general public facilitates the interaction between the advisory bodies and the public. The member is expected to report, as a matter of routine at the meetings, on any specific contacts made by members of the public relevant to the functions of the advisory body. ARPANSA is responsible for giving the member visibility on its website and for facilitating the interactions.

2.4 Code of Conduct and Conflicts of Interest

It is expected that members of the advisory bodies will comply with the Australian Public Service Code of Conduct as if they were *statutory office holders* to which section 13 of the [Public Service Act 1999](#) applied¹.

Where a member engages in conduct which would be considered to be in breach of the Code of Conduct, were it to apply, such conduct will be deemed to constitute 'misbehaviour' for the purposes of Regulation 16 (Council members) and Regulation 28 (committee members) and may lead to the member's appointment being terminated.

It is important that, regardless of background and basis for nomination, members of all advisory bodies provide *their expert advice*. Although the appointments have been based on the need for a diversity of competencies and backgrounds, members should not act as representatives or advocates for their profession, interest or affiliation but use their skills and experience to provide best possible advice to ARPANSA and to perform the functions of the advisory bodies as laid out in the Act. However, it is noted that jurisdictional representatives also have obligations to represent their jurisdictions.

Under regulation 15 (Council) and regulation 27 (committees) members are required to disclose all interests, pecuniary or otherwise, that the member has or acquires that might conflict with the proper performance of the member's functions. Members are expected to take reasonable steps to avoid any such conflict of interest (real or perceived). Members will be emailed a declaration form to complete at the beginning of their appointment and it is their duty to ensure that this declaration is updated if circumstances change during the term of appointment. Failure to comply with this requirement may lead to the appointment of the member being terminated.

Members are required to undergo a baseline security vetting in accordance with Australian Government guidelines. The security vetting is carried out by ARPANSA.

2.5 Indemnity

A main function of all the advisory bodies is to provide advice to the CEO of ARPANSA. Any decisions resulting from such advice – or taken against such advice – are the CEO's. The CEO will consider advice given, but is not bound by the advice.

Whilst ARPANSA considers it is unlikely that legal liability could attach to any individual member as a result of a decision taken by the CEO, nevertheless where a member is a defendant in civil or criminal proceedings and the proceedings arose out of an incident that relates to the member performing their functions as a member of an advisory body and the member acted reasonably and responsibly, the *Legal Services Directions 2017* provide for the Commonwealth to take over the conduct of the proceedings and indemnify the member against any costs or damages.

¹ <http://www.apsc.gov.au/working-in-the-aps/your-rights-and-responsibilities-as-an-aps-employee/code-of-conduct>

3. Workflow

3.1 Meeting planning and attendance

Membership of the advisory bodies requires that members make it a priority to participate in the meetings. It is understandable if there are conflicting priorities for many members, but giving high priority to the meetings is a prerequisite for getting the 'added value' from the deliberations. To the extent possible, members should attend in person, but participation via video link is an alternative.

The Minister may grant leave of absence to the Chair of Council; and the Council Chair may grant leave of absence to a Council member. Similarly, the CEO may grant leave of absence to a committee Chair; and a committee Chair may grant leave of absence to a committee member. The Chair of an advisory body must preside at any meeting at which they are present. If the Chair is absent another member chosen by the members present must preside. Observers may be present at the discretion of the Chair in consultation with the CEO. The ARPANSA Branch Heads, and Chief of Staff (in the case of Council meetings), will normally be present as observers.

The Chair of an advisory body should start planning the next meeting well in advance and in consultation with the CEO and Secretariat so that necessary arrangements can be made. The Chair, CEO and relevant ARPANSA staff usually meet (by video link or conference call) about a week before the related advisory body meeting to discuss the agenda. Council meetings will when possible make provision for representations from members of the general public. This opportunity is advertised on the ARPANSA website. The ability to accommodate requests to appear at Council depends on the number and nature of the requests and will be accommodated at the discretion of the Chair in consultation with the CEO and subject to affordability.

Members are expected to engage freely and actively during the meetings. The Chair should encourage a free and constructive exchange of views and may use various methods to promote such exchange, at their discretion. Action items should be agreed at the end of the meeting.

Members need to be prepared to work out of session. Careful planning between ARPANSA and the advisory bodies will be essential to ensure that such work does not become unreasonable or unduly burdensome for members. Nevertheless, inter-session work is a necessity to achieve the expected outcomes.

3.2 Meeting location

Meetings of Council and NSC are normally held at one of ARPANSA's offices, but may be held in other locations from time to time. Travel arrangements will be made by ARPANSA in accordance with Australian Government guidelines.

RHC meetings will rotate between jurisdictions. The host jurisdiction will arrange for, and bear the costs of, a suitable venue, catering and other practical aspects of the meeting. Jurisdictional representatives must organise their own travel and accommodation. ARPANSA will organise travel and accommodation for non-jurisdictional members, as for Council and NSC above.

3.3 Meeting papers

Meeting papers should be concise and to the point and follow a prescribed format. The papers may be supplemented with supporting material as necessary.

Meeting papers will be circulated electronically to members at least a week before the meeting (but not distributed in hard copy) to allow members to discuss particular issues and draft documents.

3.4 Decisions

A majority of members of an advisory body forms a quorum. Decisions will be by a majority of the votes of the members present.

With respect to amendments to the National Directory for Radiation Protection (NDRP), ten of thirteen RHC members must endorse these amendments, and preferably all jurisdictions. Abstentions and 'no' votes, and the reasons, shall be recorded in the minutes.

3.5 Minutes, confidentiality and transparency

Before being appointed, members are requested to sign a confidentiality agreement. The agreement requires members not to disclose information that is either designated as confidential or ought to be known as confidential.

Meeting participants shall observe Chatham House Rules, that is, participants are free to use the information received (unless confidential), but neither the identity nor the affiliation of participants providing information or making statements may be revealed.

The meetings of the advisory bodies are recorded in meeting minutes. The minutes should be concise and factual. Interventions should normally not be attributed to named members. Minutes will be circulated in draft form inter-session in a timely manner and posted on the ARPANSA following members' approval.

An appropriate balance between transparency and confidentiality will be established, and may vary between agenda items. Under Section 47C(1), the [*Freedom of Information Act 1982*](#) outlines that a document is conditionally exempt if it relates to opinions, advice, or recommendations, or consultation or deliberation that has taken place, as part of the deliberative processes involved in the functions of an agency or a Minister or the Government of the Commonwealth. Thus, material that ARPANSA deems to be significant (for example, in terms of security, finances, privacy, commercial-in-confidence) will not be disclosed in the published minutes.

3.6 Correspondence, reports and statements

The advisory bodies may, as part of their work program, provide advice to the CEO in the form of correspondence, or provide reports. Unless confidential, such correspondence and reports will be posted on the ARPANSA website. The advisory bodies may also wish to publicise statements on certain issues. Such statements are by definition public and will be posted on ARPANSA's website.

ARPANSA prepares a report on the operations of the advisory bodies for inclusion in the ARPANSA Annual Report. ARPANSA will consult the Chair in preparing the report.

4. Support from ARPANSA

The organisational units at ARPANSA responsible for the support to the advisory bodies are as follows:

Council: Government and Parliamentary Relations Section, Office of the CEO.

RHC: National Codes and Standards Section, Regulatory Services Branch.

NSC: Safety Systems Section, Regulatory Services Branch.

‘Support’ means that designated ARPANSA officers liaise with the Chair and organise the work that needs to be performed by ARPANSA staff – this may involve staff members across the agency. The Chairs should be mindful of the need to progress the work program of the advisory bodies with minimal administrative overhead.