



**Australian Government**

**Australian Radiation Protection  
and Nuclear Safety Agency**



# **Roles and Expectations for Advisory Bodies**

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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 (the **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 2018](#) (the Regulations).

The aim of this document is to:

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

## 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, including on matters at the CEO's request, the Council may also advise the CEO on such other matters relating to radiation protection and nuclear safety as the Council considers appropriate. The RHC and NSC perform their work only on the request of the CEO. The ARPANSA CEO regularly reports on the activities of Council, NSC and RHC to the Minister and to the Parliament through Quarterly and Annual Reports of ARPANSA's activities.

Australian jurisdictions support the role of RHC under the ARPANS Act, through the 1999 Council of Australian Government (COAG) agreement to promote national uniformity through the development of, and commitment to the *National Directory for Radiation Protection (NDRP)* and its 2021 revision to a second edition, NDRP2. Jurisdiction support for the functions of RHC is essential given that each jurisdiction has responsibility and authority for its own radiation protection legislation.

## 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. 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).

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 is a *person to represent the interests of the general public*.

**For Council**, broad representation from a wide range of professional backgrounds, skillsets 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) 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 with nominees to be appointed by the Minister.

**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 will typically commence 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 CEO will typically undertake such consultation in any nomination process and provide informed feedback and advice to the Minister with any nominations received. The Minister must appoint a Chair for Council and the CEO must appoint a Chair for each committee.

## 2.3 The member to represent the interests of the general public

The member representing the interests of the general public may represent the views of any representations made to them formally or informally. The general public's interests are represented in order to inform the deliberations of each advisory body, for the purposes of advising the CEO. The member is expected to report, as a matter of routine at each meeting, on any specific contacts made by members of the public, or any group, on matters relevant to the functions of the advisory body.

Enquires from the public of a generic nature that the Secretariat determines do not raise issues for the consideration of the advisory body will be referred to ARPANSA for response. In making any referral, the Secretariat will advise the Chair and the member representing the interests of the general public. The Council may also refer to ARPANSA any specific enquiries which request information or a reply.

## 2.4 Code of Conduct, Conflicts of Interest, Security Vetting

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](#) applied, including the duty to not disclose official information.<sup>1</sup>

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 Section 22 of the Regulations (Council members) and Section 34 of the Regulations (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 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 the 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 section 20 of the Regulations (Council) and section 32 of the Regulations (committees) members are required to disclose to the Minister and the CEO respectively all interests, pecuniary or otherwise, that the member has or acquires that might conflict with the proper performance of the member's functions generally.

Under section 21 of the Regulations (Council) and section 33 of the Regulations (committees) members are required to disclose to a particular meeting of an advisory body whether the member has any interest that conflicts or could conflict with a matter being considered or about to be considered at that meeting. It is a matter for the members present at the particular meeting to collectively resolve how the disclosed conflict should be managed during the meeting. All disclosures and resolutions are to be recorded in the minutes of the meeting.

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

Members will be emailed a declaration form to complete at the beginning of each term of their appointment to satisfy sections 20 and 32 of the Regulations and it is their duty to ensure that this declaration is updated if circumstances change during the term of appointment. Usually, it will not be necessary to update the member's declaration with any interests disclosed to a particular meeting that relate only to a specific agenda item unless the interest is of such a nature as to reasonably give rise to a presumption that the interest conflicts or could conflict with the proper performance of the member's functions generally. ARPANSA's Conflict of Interest Accountable Authority Instruction provides more detailed guidance on what constitutes a conflict of interest.

Members are expected to take reasonable steps to avoid any conflict of interest (real or perceived). Failure to comply with either requirement to declare conflicts may lead to the appointment of the member being terminated.

Members are required to undergo Pre-employment screening including an Australian Federal Police National Police Check prior to appointment and Australian Government Security Vetting Agency (AGSVA) security clearance upon appointment or reappointment in accordance with *Australian Government Protective Security Policy Framework, Personnel Security Policy*. AGSVA will undertake the security clearance on behalf of ARPANSA at the level required for the position.

Members maintain an ongoing requirement to understand and comply with the obligations of Security Clearance holders. Members must report to ARPANSA and AGSVA matters impacting their ongoing suitability to maintain a security clearance.

## 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 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 arise 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 in performing those functions, 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.

## 3. Workflow

### 3.1 Meeting planning and attendance

In accordance with the Regulations, the Minister or the CEO may direct the Council in writing to hold meetings at times and places stated in the written notice. If the Minister or CEO has not directed the Council to meet, the Council may hold meetings as they consider necessary for the performance of their functions. Similarly, the CEO may direct the Committees to meet and if the CEO has not directed the Committees to meet they may hold meetings as they consider necessary for the performance of their functions.

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 also 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 of the advisory bodies are expected to prioritise participation in meetings and other scheduled activities. To the extent possible, members should attend in person, but participation via video link may be offered as an alternative where available.

The Minister may grant leave of absence to the Council Chair; 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 may 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.

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 and travel**

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

### **3.3 Meeting papers**

Meeting papers should be concise and to the point and follow a prescribed format using Council and Committee templates. The papers may be supplemented with supporting material as necessary. The support from ARPANSA that may be provided in the development of meeting papers is detailed in Section 4, below.

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 who cast a vote.

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 required 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 website 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 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 and it would be in the public interest not to disclose the document. 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. Committees must prepare any report that is requested by the CEO, and if a Committee prepares a report on any matter it must provide a copy of the report to the CEO.

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 Quarterly and Annual Report. ARPANSA will consult the Chairs in preparing the reports and the Council must prepare a report for the CEO on the Council's activities for each financial year, to be provided to the CEO by 31 July after the end of the financial year in accordance with the ARPANS Regulations 1998 Section 29 (2).



## 4. Support to Council and Committees from ARPANSA

Support available from ARPANSA includes designated ARPANSA staff working to:

- liaise with the Chairs and other ARPANSA staff,
- plan meeting dates, venues, and agendas,
- draft meeting papers based on technical advice,
- write and publish meeting minutes and actions,
- organise, co-ordinate, and track work in progress and the work that needs to be performed by ARPANSA staff, committee and Council members.

However, the Chairs should be mindful of the need to progress the work program of the advisory bodies with minimal administrative overhead.

The organisational units at ARPANSA responsible for the coordination and technical secretariat support for the advisory bodies are as follows:

**Council:** National Uniformity Policy and Secretariat Section, Office of the CEO.

**RHC:** National Uniformity Policy and Secretariat Section, Office of the CEO.

**NSC:** Safety Systems Section, Regulatory Services Branch.