

Quick Guide to Disclosure Statements for Bills and SOPs - June 2013

Process Guide

1. Determine whether the disclosure statement requirements apply	<p>A departmental disclosure statement is required for:</p> <ul style="list-style-type: none"> all government Bills, unless exempt (see overleaf); and all “substantive” government SOPs (as defined overleaf).
2. Draft the disclosure statement	<p>The instructing department is responsible for the disclosure.</p> <p>The right template (see link overleaf) must be used so that PCO can convert the statement into html format for web publication.</p> <p>An early start on preparing the statement is recommended. This will help to identify issues or gaps early, and support both better quality disclosure and perhaps a better Bill or SOP.</p>
3. Provide the final or final draft statement to Cabinet LEG committee and PCO	<p>The finalised statement (or a near final draft) must be:</p> <ul style="list-style-type: none"> attached to the Cabinet paper seeking approval to introduce a Bill or SOP, for Ministerial information; emailed at that time to the PCO Prepublication Unit (ppu@parliament.govt.nz), copied to your PCO drafter, who might be able to identify any obvious problems early.
4. Formally approve the final disclosure statement and confirm to PCO it is ready for publication	<p>Once the Bill or SOP is finalised, the disclosure statement must:</p> <ul style="list-style-type: none"> be checked and formally signed-off by the department; and be emailed to the PCO Prepublication Unit, together with formal confirmation that it is now ready for publication. <p>To ensure publication at the same time the Bill or SOP is tabled, this must reach PCO at least two working days in advance.</p>
5. Put material to be accessed through hyperlinks online	<p>Departments are encouraged to provide any further information required (beyond the YES or NO answers) by adding active hyperlinks to that information where possible. These links will need to be working by the time the statement is published.</p>
6. Provide 40 hard copies for MPs	<p>Departments must provide 40 hard copies of the disclosure statement to the Bills Office to be available to MPs as soon as the Bill or SOP is published.</p>

The different forms of disclosure statement

Bills

There is one disclosure statement template for all Bills. It requires:

- a general policy statement, presenting the same text also included in the Bill’s explanatory note;
- background material and policy analysis relating to the Bill;
- information about the testing that the Bill has undergone; and
- information about significant or unusual features in the Bill.

Omnibus Bills

For Bills where two or more departments have policy responsibility, the complete disclosure statement will be ideally provided either by the lead department or by the departments as a collective.

However, where different agencies have worked on different Parts of a Bill quite independently, provision can be made for separate disclosures for the different Parts, though still under a common cover. Please talk to PCO first if you wish to make use of this option.

Supplementary Order Papers

There are two different disclosure statement templates for SOPs.

- For SOPs with material policy changes, a department should provide either a revised or a supplementary disclosure statement for the content of the whole Bill incorporating the SOP.
- For all other “substantive” SOPs a department may supply a short-form disclosure statement for the content of the SOP alone containing information on significant or unusual features only.

Transitional matters

For SOPs on a Bill without its own disclosure statement (the Bill having been introduced before the disclosure requirements applied):

- a short-form disclosure statement may be used, even for SOPs containing material policy changes;
- but a full disclosure statement for the revised Bill will still be expected for an SOP being referred back to select committee.

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What is a disclosure statement?

- A departmental document that provides factual information about the development and content of legislation proposed by the government.
- The information to be disclosed is linked to existing government expectations for the development of legislation, or to significant or unusual features of legislation that tend to warrant careful scrutiny.
- The disclosure statement largely takes the form of a series of questions that must be answered YES or NO, with further information required to elaborate, explain or clarify the answer given.
- The information is presented using an approved template. These are available for download from:
www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements

What is disclosure intended to do?

- Improve legislative quality by increasing the attention given to the selected matters by:
 - MPs and other people that may get involved in the scrutiny of legislation; and
 - those responsible for proposing or preparing the legislation.

Who is responsible for the disclosures made?

- The disclosure statement is a departmental document, not a Ministerial document.
- It should reflect the knowledge and understanding of the department(s) responsible for developing the legislation.

When is a disclosure statement required?

- All government Bills require a disclosure statement, except:
 - Imprest Supply or Appropriation Bills;
 - Statutes Amendment Bills or Revision Bills;
 - Regulatory Reform (Repeal) Bills; and
 - Subordinate Legislation (Confirmation and Validation) Bills.
- All “substantive” government Supplementary Order Papers (SOPs) require a disclosure statement, unless they relate to an exempt Bill.
- “Substantive” SOPs fall into two categories:
 - those making material changes to the policy being given effect by a Bill; and
 - those that may not make material policy changes but have particular legislative features that would, for a Bill, require a YES answer to at least one of the content questions (Qu.3.4, 3.5 or Part 4) for Bills.
- What is a material change to the policy will be a matter of judgement, but indicators might be:
 - Material changes to the nature and size of the potential costs and benefits;
 - Further policy approvals from Cabinet and/or an updated or supplementary RIS;
 - Further external consultation or a proposed reference back to the select committee.

What is the process for completing disclosures?

- Please refer to the process guide overleaf.

What happens to disclosure statements?

- Disclosure statements are to be provided to Cabinet along with the Bill or SOP when final approval is sought to introduce legislation.
- All disclosure statements will be published on a central website by PCO once the relevant Bill or SOP is introduced or released.

What are PCO’s responsibilities?

- To insert the correct Bill or SOP reference number into the finalised statement and add a link to the statement in the relevant explanatory note.
- To prepare the disclosure statement for publication, and publish at the appropriate time.
- PCO may alert departments to obvious content or formatting problems, but is not responsible for identifying and fixing any problems, or ensuring that late statements are published on time.
- To consider requests for variations to the format of a template (in exceptional circumstances only).

Need further assistance?

- Cabinet Office Circular CO (13) 3
- *Disclosure Statements for Government Legislation: Technical Guidance for Departments:*
www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements

Have a query about templates or publication?

- Contact the Parliamentary Counsel Office Prepublication Unit: ppu@parliament.govt.nz

Still unclear about requirements or processes?

- Contact the Treasury Regulatory Quality Team: regulation@treasury.govt.nz