

Clerk's Office

Output Group 1

Provision of sound and timely advice on proceedings of the Senate and its committees and provision of leadership and strategic direction for the department.

Provision of secretariat and advisory support to the Procedure Committee, the Committee of Privileges and the Committee of Senators' Interests.

Provision of procedural information and related services to senators and the Senate Department.

	Performance indicators	Performance results
Quality	The degree of satisfaction of the President, Deputy President, committee members and senators, as expressed through formal and informal feedback mechanisms, with the quality and timeliness of advice and support and the achievement of key tasks. Advice, documentation, publications and draft reports are accurate and of a high standard.	The 2009 senators' survey reported high levels of satisfaction with the quality and timeliness of advice on powers, privileges and proceedings (97% satisfied or very satisfied) and no dissatisfaction. All advice, documents, publications and draft reports remained of a high standard and none was shown to be inaccurate.
Timeliness	Meetings held, documentation provided and reports produced within timeframes set by the Senate or the committee, as relevant. <i>Odgers' Australian Senate Practice</i> updated each six months; new printed edition produced regularly. <i>Procedural Information Bulletin</i> produced two days after end of sitting fortnights. Other procedural resources updated and augmented as required.	All the indicators relating to timeliness were met to the satisfaction of senators. The twelfth edition of <i>Odgers' Australian Senate Practice</i> was published and tabled in the Senate on 25 September 2008. The <i>Procedural Information Bulletin</i> was produced within the specified timeframe following all sitting periods and estimates hearings. Two new titles in the series <i>Brief Guides to Senate Procedure</i> were published. Work on a new publication, the <i>Annotated Standing Orders of the Australian Senate</i>, was completed.
Quantity	As required, on request, or proactively, to facilitate proceedings.	The demand for written advice returned to normal levels. Sufficient printed copies of all reports and documents were available immediately on publication or tabling, and all publications were made available online as soon as possible.

Analysis

The Clerk’s Office consists of the Clerk, the Deputy Clerk and their executive assistants.

The Clerk is the administrative head of the Department of the Senate and, in accordance with the *Parliamentary Service Act 1999*, is responsible, under the President of the Senate, for managing the department. The Clerk is also the principal adviser to the President and senators on proceedings in the Senate, parliamentary privilege, committee proceedings and their outcomes in the chamber, and other parliamentary matters. The Deputy Clerk supports the Clerk in these roles and chairs the department’s Audit and Evaluation Committee.

The full-time equivalent staffing level for the Clerk’s office in 2008–09 was 4.0, the long-term average.

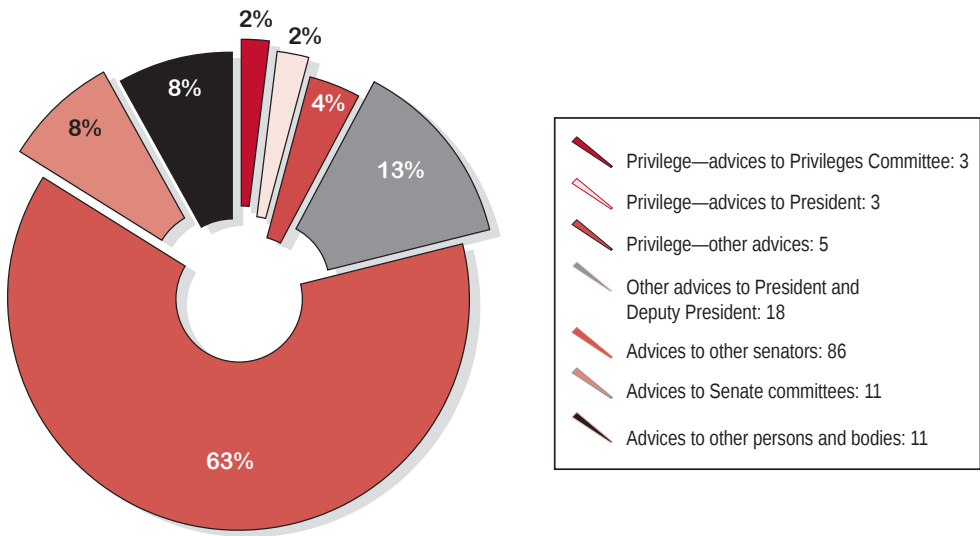
The cost of the office for 2008–09 was \$1.2 million (\$1.0 million in 2007–08).

Procedural advice

The primary function of the Clerk’s Office is to provide procedural and constitutional advice. The office gives oral and written advice but records only written advice because of the difficulty of quantifying oral advice. The office may provide the advice proactively or on request.

Figure 3 shows the number and kinds of written advices provided during 2008–09, and each kind as a proportion of the total. The total number represents a strong return to normal levels, consistent with the fluctuations in demand that occur during an electoral cycle and the return of the Senate to a situation where no party has a majority.

Figure 3 Types of written advices provided by the Clerk, 2008–09



The Clerk’s Office gave advice on subjects such as public interest immunity claims, orders for production of documents, section 57 of the Australian Constitution, requests for amendments to financial legislation, the effect of equally divided votes in particular circumstances, overseas and Australian court cases on parliamentary privilege, and processes for reconsidering legislation.

The breadth of topics covered continued to be wide, ranging from constitutional and governance issues to points of procedure.

Committees

The office is responsible for the administration of three Senate standing committees.

Procedure Committee

The Clerk of the Senate served as secretary to the Procedure Committee, which responds to references from the Senate or the President by evaluating, and recommending improvements to, Senate procedure.

The committee met six times in 2008–09 in relation to numerous matters and presented five reports. These were the first reports presented since August 2006 and reflected the Senate's return to its more habitual composition. The restructuring of question time was dealt with in three reports, as the Senate moved to implement a modified version of a scheme proposed by the Deputy President, Senator the Honourable Alan Ferguson. Questions to committee chairs and other senators were dealt with in two reports, with the Senate adopting the committee's recommendation that these barely used procedures should be abolished.

Another major subject examined by the committee in two reports was the restructuring of the Senate's committee system. The committee recommended a return to the pre-2006 configuration of references and legislation committees, and the Senate adopted the recommendation with effect from 14 May 2009. The committee also recommended the clarification of provisions in Standing Order 25 relating to deputy chairs of committees, and commented on a suggested procedure for referring Budget bills to committees in the Budget sittings.

Committee of Privileges

The Deputy Clerk served as secretary to the Committee of Privileges. The committee protects the integrity of Senate and committee proceedings by considering matters possibly amounting to contempt of the Senate. Those matters, which are a result of concerns raised by other committees or individual senators, are referred to the committee by the Senate. The Committee of Privileges also administers the right-of-reply mechanism for people seeking to respond to adverse comment made about them in the Senate.

It was a quiet year for the committee, which met four times in 2008–09 (10 times in 2007–08) and presented three reports (five in 2007–08), all relating to people exercising a right of reply. Members of the committee also met informally with a parliamentary delegation from Colombia. At the end of the year, the committee was inquiring into one possible case of contempt of the Senate, relating to the treatment of a witness before a committee.

Committee of Senators' Interests

The Deputy Clerk also served as secretary to the Committee of Senators' Interests, and helped senators to fulfil the requirements of Senate resolutions relating to declarations of pecuniary interests and gifts.

In 2008–09, the committee met twice (once in 2007–08), and presented its annual report as required by its terms of reference. Members of the committee also met informally with a parliamentary delegation from Colombia to discuss the ethical framework applying to senators.

REPORT ON PERFORMANCE – OUTPUT GROUP 1

As required under the relevant resolution of the Senate, all senators lodged new statements of interests within 28 days of the new Senate meeting for the first time on 26 August 2008. Throughout the year, senators continued to register alterations to their statements of interests. Volumes of alterations and new statements were prepared by the secretariat and tabled on 25 September and 3 December 2008, and on 24 June 2009. Departmental Senior Executive Service (SES) officers' statements of interests were tabled on the same dates.

Declarations of gifts intended for the Senate or the parliament were tabled on 25 September and 3 December 2008. Notice of a motion for a proposed inquiry by the committee into accountability mechanisms in relation to sponsored travel and hospitality was withdrawn.

Procedural information

The main vehicle for procedural information is *Odgers' Australian Senate Practice*. As foreshadowed in last year's report, the Clerk completed the twelfth edition of this essential reference work in 2008–09. Supplements will continue to be produced between editions so that the work remains fully up to date and authoritative.

The Clerk produced issues of the *Procedural Information Bulletin* after each sitting fortnight or period of estimates hearings. The bulletin included occasional notes on aspects of parliamentary law, procedure and practice.

In addition to those documents, the Clerk and the Deputy Clerk produced and updated various forms of publications on procedures. Two new titles in the *Brief Guides to Senate Procedure* series were published in hard copy and online. The new titles dealt with parliamentary privilege as it applies to senators, and provisions governing the conduct of senators. The titles were produced in time for the orientation program for new senators elected at the November 2007 federal election whose terms began on 1 July 2008.

During the year, the Deputy Clerk, assisted by several members of staff from the Table Office, completed an annotated edition of the *Standing Orders and Other Orders of the Senate*. This large, illustrated volume traces the evolution and rationale of each of the Senate's current standing orders from their adoption early last century. At the end of the year, the work was in the process of being printed for publication in August 2009.

The Clerk and the Deputy Clerk contributed to training programs on parliamentary matters, including 'Parliament, Privilege and Accountability', the long-running program for SES officers of executive agencies. A particular focus during the year was the orientation program for new senators, held in July 2008 and again featuring the popular simulated chamber proceedings, chaired by the then President of the Senate, Senator the Honourable Alan Ferguson.

Information about Senate officers' presentations and papers appears in Appendix 4.

Factors, events and trends influencing performance

As foreshadowed in last year's annual report, the return of the Senate to the commonly prevailing conditions, where no party enjoys a majority and negotiation is essential, created a demand for innovative and flexible procedural advice from the Clerk's Office.

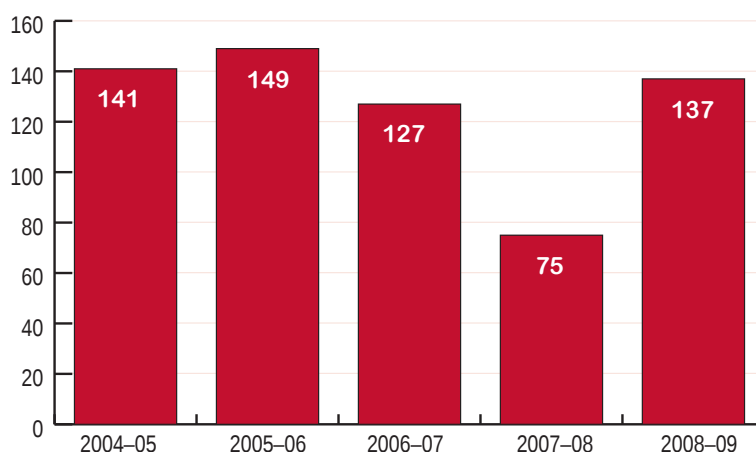
Because the number of sitting days in the year continued to be lower than the long-term average, the demand for advice was often concentrated into sitting and estimates periods. Despite these time pressures, all advice was produced on time and to the satisfaction of its recipients, and none was shown to be incomplete or inaccurate.

The relatively large number of select committees in operation during 2008–09 also influenced the demand for advice, particularly in relation to obtaining information from government and dealing with claims of public interest immunity.

Figure 4 shows the number of written advices that the Clerk's Office has provided each year over the past five years.

Consistent with the changes in the Senate's composition, the Procedure Committee was more active than usual during the year, but this trend did not extend to the other committees supported by the office. Although the Committee of Privileges continued to consider a steady trickle of applications for a right of reply, no possible contempt was referred to the committee until the end of the winter 2009 sittings.

Figure 4 **Number of advices provided by the Clerk's Office, 2004–05 to 2008–09**



Evaluation

The principal medium for formal evaluation of services provided by the Clerk's Office is the biennial survey of senators' satisfaction, most recently conducted in February and March 2009.

Consistent with the previous survey (conducted in 2007), just over half (51 per cent) of respondents who reported having received advice indicated that they were highly satisfied with the service and 46 per cent that they were satisfied, with 3 per cent being neutral. No dissatisfaction was recorded. The survey report indicated that several of the senators surveyed regarded advice on powers, privileges and proceedings of the Senate as the most important support the department provides. The report said, 'the high level of satisfaction this attribute achieved in the survey is illustrative of the department successfully delivering crucial support to senators'.

Advice provided by the Clerk's Office may also attract scrutiny during the estimates process, either when the department appears before the Finance and Public Administration Legislation Committee or when advice provided by the Clerk's Office to senators or committees is immediately tested in public. On numerous occasions during the 2008–09 estimates hearings advice from the office was sought and relied upon to the satisfaction of the recipients.

REPORT ON PERFORMANCE – OUTPUT GROUP 1

Evaluation of specific activities, such as staff contributions to training programs, occurs through participant feedback, usually in the form of written comments. On this measure, recipients of these services were well satisfied. In particular, the office's contribution to the orientation program for new senators held in July 2008 was very well received; feedback from the program will be useful in continuing to refine future programs.

Performance outlook

The office and the department face major change in 2009 with the retirement of the Clerk on the expiration of his fixed-term appointment under the *Parliamentary Service Act 1999*. In December 2009, Mr Harry Evans will have served the Senate as the Clerk for nearly 22 years. Notwithstanding the extensive documentation of Senate practices and procedure by the Clerk in such works as *Odgers' Australian Senate Practice* and the *Procedural Information Bulletin*, there will be a significant loss of corporate memory and experience.

At the end of the reporting period, the President of the Senate had initiated a recruitment process for a new Clerk. The focus of the office in 2009–10 will be on maintaining the consistently high levels and standards of service to senators, as recognised in the 2009 survey, despite the inevitable change in office personnel.

The *Annotated Standing Orders of the Australian Senate* will be published and launched in August 2009 and it is hoped that this work will be a useful addition to the resources available to departmental staff in advising senators and supporting the operations of the Senate and its committees.