

## Clerk's Office

### Outputs

Provision of advice on, and support for, proceedings of the Senate and its committees.  
 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 information	Performance results
Advice and support are sound and timely, and provided to the satisfaction of the President, other office-holders, Senate committees and senators so that they are able to fulfil their roles.	Formal and informal feedback indicated that satisfaction with advice on powers, privileges and proceedings remained at levels approaching those reported in the 2011 senators' survey (100% satisfied or very satisfied) although one senator publicly expressed dissatisfaction with advice.  No advice was shown to be inaccurate and all advice and support was provided in time to meet procedural and operational requirements.
The capacity of the department and its employees to provide advice and support meets operational requirements.	Targets achieved under the learning and development framework underpinned the department's advisory and support capacities.
Governance structures advance achievement of the department's outcome.	Governance forums planned for and achieved all significant targets for the year, including devising and managing budgeting and staffing targets, negotiating a new enterprise agreement and managing the commencement of the new Senate from 1 July 2011.
Coordination of information resources advances awareness of the role and work of the Senate.	SPIO devised additional sources of information online and managed and contributed to significant information resource projects.
Advice, documentation, publications and draft reports are accurate, of a high standard and produced to meet the required timeframes.	All advice, documents, publications and draft reports produced in support of committees were of a high standard and met required timeframes; none were shown to be inaccurate.
<i>Odgers' Australian Senate Practice</i> is updated each six months and a new printed edition is produced regularly. The <i>Procedural Information Bulletin</i> is produced two days after the end of sitting periods and other procedural resources are updated and augmented as required.	The 13th edition of <i>Odgers' Australian Senate Practice</i> was produced in multiple formats and tabled on 29 June 2012.  The <i>Procedural Information Bulletin</i> was produced within the specified timeframe following all sitting periods and estimates hearings.  A regular newsletter was issued from the Clerk to senators and senators-elect, containing items of procedural interest, among other things.

## Overview

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, has particular oversight of information management and corporate governance, and chairs the department's Audit and Evaluation Committee.

Until this year the Clerk's Office has consisted of the Clerk, the Deputy Clerk and their executive assistants. With the retirement of the Deputy Clerk's executive assistant, the office reorganised its work so that one executive assistant now supports both executives, an acknowledgment of changing work practices, increased productivity with the use of technology and the imperatives of increased efficiency dividends. In July 2011, the Senate Public Information Office was established, comprising two staff under the direction of the Deputy Clerk.

The full-time equivalent staffing level for the Clerk's office in 2011–12 was six, two more than its long-term average, for the reasons noted above.

The cost of the office for 2011–12 was \$1.3 million, an increase on the previous year's cost of \$1.1 million, attributable to the advent of the Public Information Office.

## 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 2011–12, and each kind as a proportion of the total (93). It is expected that the demand for advices will follow the electoral cycle, with lower demand during election years. Higher demand last year, despite the 2010 election, was attributable to the advent of minority government and the ensuing challenges. Lower demand this year reflects a period of relative procedural stability in the Senate. Although there was an increase in advices to the President (including on privilege matters) and the Deputy President, the number of advices to other senators (41), to committees

(10) and to other persons and bodies (4) was much lower than comparable figures for last year (79, 25 and 8, respectively). A factor in the reduced demand for advice was the relative stability in relationships between the Senate and the Houses of Representatives and the absence of any legislative disagreements between them, a most unusual phenomenon. The figures do not reflect the contribution of oral advice to the services provided by the office as it cannot be quantified in any meaningful way.

**Figure 3 Types of written advices provided by the Clerk, 2011–12**

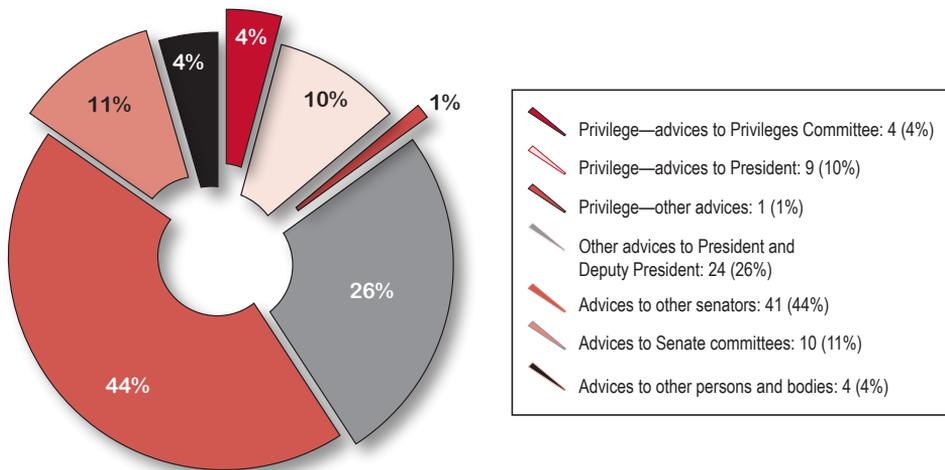
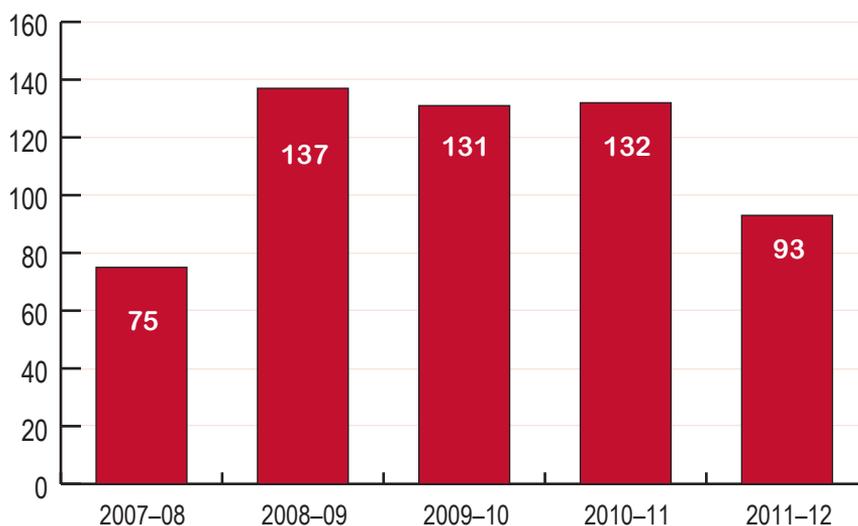


Figure 4 shows the number of written advices that the Clerk's Office has provided each year over the past five years. Note that, unlike this year, 2007–08 was an election year.

As is usual, advice covered a wide variety of subjects including the raising and referral of matters of privilege, determination of precedence for privilege matters, reimbursement of legal costs, the inquiry powers of the Senate, public interest immunity claims and procedures, further advice on grounds for disqualification of senators and candidates for election, the process for challenging elections, proposals for procedural change, protection of witnesses before committees, financial powers of the Senate, the meaning of the term 'ordinary annual services of the government' in section 53 of the Constitution, procedures for the consideration of private senators' bills and the unauthorised disclosure of committee proceedings.

**Figure 4** Number of advices provided by the Clerk's Office, 2007–08 to 2011–12



The Clerk made submissions to the following inquiries:

- *Inquiry into the adequacy and appropriateness of guidance and advice available to officers giving evidence to Senate committees and when providing information to the Senate*, Senate Standing Committee of Privileges (supplementary submission, 15 August 2011)
- *Inquiry into the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012*, Senate Legal and Constitutional Affairs Legislation Committee (submission, 24 April 2012, and supplementary submission, 16 May 2012)

and in response to the Government's Commonwealth Financial Accountability Review discussion paper (submission, 27 June 2012).

## **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 once in 2011–12, in relation to numerous matters. It continued to examine the consideration of private senators' bills and recommended on two occasions that the temporary order for consideration of private senators' bills be extended. It recommended minor changes to standing and other orders to accommodate technological upgrades in the processing of tabled documents and answers to questions on notice.

By the end of the reporting period, the committee had begun a review of the routine of business in the Senate which has followed its current broad shape since 1994.

### **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.

The committee had 15 meetings in 2011–12 (5 in 2010–11) and presented five reports, compared with only one in 2010–11. Two of those inquiries arose from references of possible contempt matters, including a contentious matter concerning allegations between senators, and three concerned right-of-reply matters. The committee also has an ongoing inquiry into guidance and advice for officers giving evidence to committees or providing information to the Senate or to senators.

### **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 2011–12, the committee met five times (three times in 2010–11), and presented its annual report as required by its terms of reference. The committee oversaw the publication online for the first time of statements of senators' interests, a practice recommended by the committee to commence with the new Senate in July 2011. The secretariat continued to provide access to the register of senators' interests and to make copies of statements available on request, although very few requests for access were made, given the availability of statements online.

As required under the relevant Senate resolution, senators provided statements of interests within the specified time after the commencement of the new Senate and continued to register alterations to their statements of interests. Volumes of statements and alterations were prepared by the secretariat and tabled on 17 August 2011, 9 December 2011 and 28 June 2012. Departmental Senior Executive Service (SES) officers' statements of interests were also tabled on those days.

The committee continued to consider a reference on the development of a draft code of conduct for senators but did not report on the matter during the year.

## **Procedural information**

The 13th edition of *Odgers' Australian Senate Practice* was produced by the Clerk, published on 28 June 2012 and tabled in the early hours of 29 June. It records procedural developments up to May 2012. The 13th edition continues to bear the name of the former Clerk, Harry Evans, who substantially rewrote the work with the 7th edition in 1995. There has been some restructuring of chapters, some omission of historical material and a major reformatting of the work but, in essence, it is the 12th edition updated to take account of developments since 2008.

The Clerk also produced issues of the *Procedural Information Bulletin* after each sitting period or period of estimates hearings. These bulletins covered all major procedural developments and issues of procedural interest arising in the proceedings of the Senate or during estimates hearings.

A further new title in the series of *Brief Guides to Senate Procedure* was produced, on provisions governing the conduct of senators in debate.

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

## **Governance**

The Deputy Clerk chaired the Program Managers' Group; provided liaison between that group and the Senate Management Advisory Group; chaired the Audit and Evaluation Committee, and was secretary to the Senior Officers' Group, chaired by the Clerk. More information on these forums is in the chapter 'Management and accountability'.

Measures to implement and monitor a staffing budget cap were established in May 2012, in response to the additional efficiency dividend

applied from the end of the financial year. These measures were discussed in all of the department's management forums and are overseen by the Deputy Clerk and the Usher of the Black Rod.

The Deputy also served as a member of the working group advising the Presiding Officers on the establishment of the Parliamentary Budget Office. He also served on the Steering Committee for the Review of Information and Communication Technology (ICT) for the Parliament, initiated by the Presiding Officers, which commenced work on 30 April 2012 and is expected to report in August 2012.

## Information management

The Senate Public Information Office (SPIO), recommended by the 2010 departmental structural review, was established in July 2011 to coordinate and better manage the department's information resources and outputs.

SPIO has two broad streams of work:

- developing and maintaining the right applications and IT environment for our work, requiring coordinated project management
- improving the effectiveness of our information flows, requiring different approaches to publishing and sharing information.

The office, comprising two staff under the direction of the Deputy Clerk, spent much of its first year assisting with the implementation of the new Parliament of Australia website, but also initiated new online resources (including an official Senate Twitter account, @AuSenate) and a new approach to updating summary material about the work of the Senate and its committees. In these aims it has worked with two working groups of the Senate Management Advisory Group: one on auditing and maintaining the material the Senate Department publishes on the parliamentary website, and the other on raising public awareness of the work of the Senate and its committees.

The other main work of the office has involved managing on behalf of the Senate a project to develop a new document production and publishing system to support the work of both Houses (see the chapter on the Table Office for more information).

## Factors, events and trends influencing performance

The new Senate commenced on 1 July 2011, with the first sitting occurring on 4 July. The challenges posed for the department in managing the departure of retiring senators while providing office accommodation

and support to new senators were met well, thanks to concerted planning across the department, the efforts of many staff and no small measure of goodwill from senators themselves.

A challenge also arose with 12 senators attending their first week of sittings without the benefit of the orientation program which has become a mainstay in the induction of senators over the past 20 years. The office produced some additional resources to assist in the transition, including a DVD for senators-elect, providing a brief introduction to the workings of the Senate. A revised version of the DVD was also produced to assist senators chosen to fill casual vacancies during the year. The formal orientation program was held in the second week of July and support for new senators was a focus during the first few months of the year. New senators indicated that they probably derived greater benefit from the orientation program, having had the opportunity to experience a week of sitting first. Support was also provided to five new senators chosen to fill casual vacancies which arose during the year.

As noted above, demand for written advice was lower than in previous years, although the complexity of some areas of advice remained high. The number of sitting days continued to be well under the long-term average but, with committees meeting on most other days, there was a constant demand for the advisory services of the Clerk's Office.

Most advices are now provided by electronic means and are therefore available very quickly to the senators or others requesting them. As in previous years, advices were frequently published by their recipients and therefore subjected to public scrutiny. None was shown to be deficient or inaccurate although, as in previous years, some were contested.

The committees supported by the office all had inquiries during the year and, in some cases, that support was supplemented by resources from outside the office.

The Senate Management Advisory Group undertook a review of the first year of operation of the learning and development framework for staff, finding that staff are generally meeting their activity targets, and making some recommendations to refine the framework and the training calendar. The framework is discussed in further detail in the Black Rod's Office chapter.

The concentration of business on sitting days and the number of committees meeting at the same time creates challenges for the provision of effective support to senators. The Clerk continued to produce a

newsletter to senators covering procedural items and updates on administrative matters and to introduce staff and explain their roles.

## Evaluation

The principal medium for the formal evaluation of services provided by the Clerk's Office, the biennial survey of senators, was conducted in February–March 2011 and reported in last year's report. Senators surveyed were either highly satisfied (53%) or satisfied (47%) with advice on powers, privileges and proceedings provided by the Clerk's Office, and detailed interviews indicated that senators considered this one of the most important services offered by the department. In 2011–12, however, one senator publicly expressed dissatisfaction with the advice and support of the Clerk's Office.

Retiring senators paid tribute to the quality of support provided, as did new senators following their orientation programs or their entry into the Senate to fill casual vacancies. As in previous years, the department responded to suggestions made in all forms by senators to improve the quality and range of services.

The immediate testing of advice provided by the office during estimates hearings and other proceedings of the Senate also continued, with senators seeking and relying on such advice on numerous occasions during 2011–12.

## Performance outlook

From the start of the next reporting period, three web publisher positions will transfer from the Senate's IT section to SPIO, and some other resource production personnel from the department will also move into the office over the course of the next reporting period.

The review of ICT for the Parliament is expected to report early in the new reporting period, with likely implications for the role of the Public Information Office and for the department more broadly.

However, the greatest influence on the outlook for 2012–13 will be the department's financial constraints which have come about as a consequence of the impact of additional efficiency dividends imposed by government on a small agency budget over the past three financial years and an even larger additional efficiency dividend facing the department in the next financial year.