

# Clerk's Office

## Outputs

Advice on, and support for, proceedings of the Senate and its committees.

Leadership and strategic direction for the department.

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

Procedural information and related resources for senators and the department.

Performance information	Performance results
Advice and support are sound and timely, and provided to the satisfaction of the President, other officeholders, Senate committees and senators so that they are able to fulfil their roles.	Formal and informal feedback indicated high levels of satisfaction with advice on powers, privileges and proceedings. 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 the department's accountability and the achievement of its outcome.	Governance forums achieved all significant targets for the year, including managing budgeting and staffing targets. Contributions to interdepartmental forums advanced the strategic aims of parliamentary administration.
Co-ordination of information resources advances awareness of the role and work of the Senate.	SPIO developed and managed public information resources. New intranet sites for senators and staff enhanced dissemination of information. Planned progress was achieved in significant parliamentary ICT projects affecting Senate and committee information resources.
Advice, documentation, publications and draft reports for committees are accurate, of a high standard and produced to meet the required timeframes.	All advice, documents and draft reports produced in support of committees supported by the office were of a high standard and met required timeframes; none were shown to be inaccurate.
<i>Odgers' Australian Senate Practice</i> is updated to reflect significant changes in the Senate. The <i>Procedural Information Bulletin</i> is produced after each sitting period and other procedural resources are updated and augmented as required.	An update to the 13 <sup>th</sup> edition of <i>Odgers' Australian Senate Practice</i> was produced in February 2015, and consolidated into a revised online version, 13.3. The <i>Procedural Information Bulletin</i> was produced on time after sitting periods and estimates hearings. Procedural and administrative information for senators was published to a new intranet site, Senate Connect.

## 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 Senate, and other parliamentary matters. The Deputy Clerk supports the Clerk in these roles and oversees the Senate Public Information Office (SPIO). The Deputy Clerk also has particular corporate governance roles, including as chair of the department's Audit and Evaluation Committee and the Program Managers' Group.

The cost of the office for 2014–15 was \$2.1 million, including \$1.1 million for SPIO.

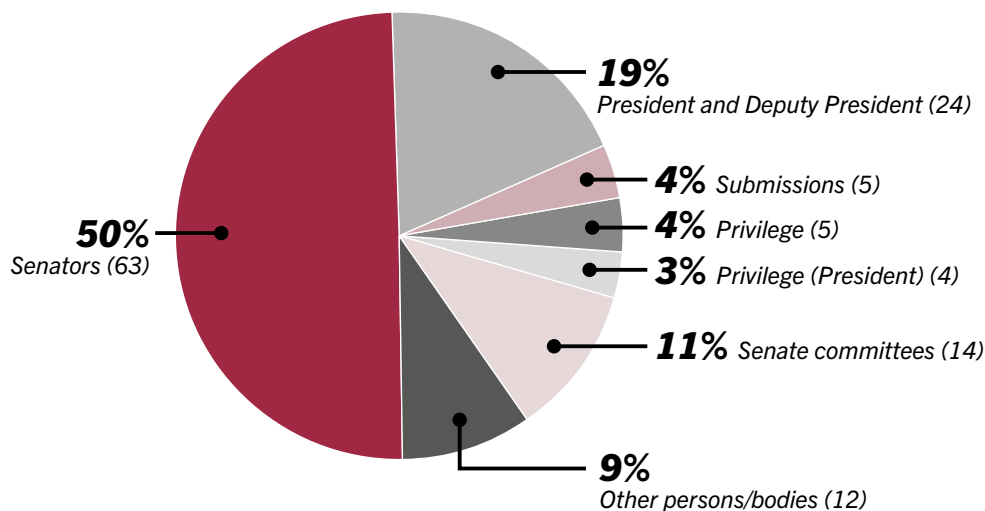
## Advice and information

The provision of advice, particularly to the President, senators and parliamentary committees, has always been a priority of the Clerk's Office. Much advice is provided orally and instantaneously, particularly in the Senate chamber and to senators who seek advice in person. Such advice is impossible to quantify in any meaningful way but the number and kinds of written advices provide some indication of work undertaken.

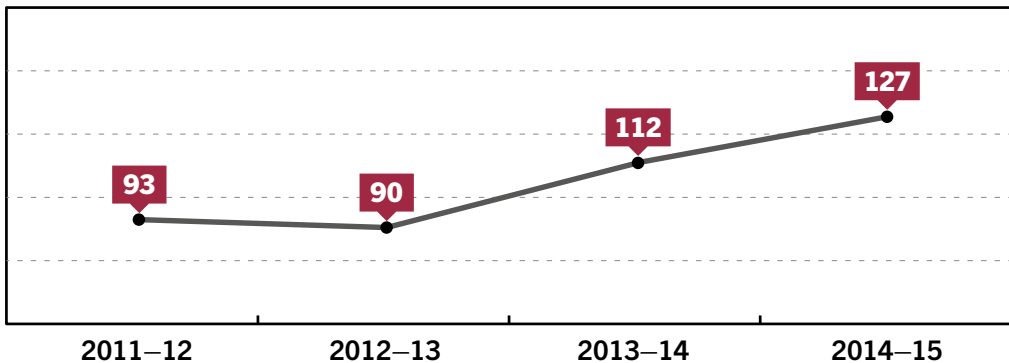
## Written advice

Figure 3 shows the number and kinds of written advices provided during 2014–15, and each kind as a proportion of the total. Figure 4 shows the numerical trend over recent years. What looks like an increase in demand for written advice is actually a return to historical levels, consistent with the current point in the electoral cycle. The level of demand reflects continued elevated levels of committee activity and the impact of the Senate's most numerous and politically diverse cross-bench from 1 July 2014.

**Figure 3 Types of written advices provided by the Clerk, 2014–15**



**Figure 4 Number of advices provided by the Clerk's Office**



Consistent with long-term trends, half of all written advice was provided to individual senators to assist them to fulfil their legislative functions and participate effectively in committee work. Advice on legislative topics during the year included the Senate's legislative powers in respect of financial legislation (including the constitutionality of proposed amendments), the deadlock provisions in section 57 of the Constitution, and the disallowance of regulations, including the procedural timeframe for determining disallowance motions, revival of pre-existing regulations, and so-called 'rescission' of disallowance resolutions to allow provisions of disallowed regulations to be remade. The Senate's inquiry powers, methods of enforcing them and probable jurisdictional limits on their exercise generated numerous advices, while advice was also given on the role of political parties under the Constitution and in relation to casual vacancies.

With 12 new senators elected in the 2013 and 2014 elections and a new President and Deputy President, elected on 7 July 2014, there was an early focus on orientation material for all of these roles.

A number of committees and individual senators sought advice on privilege matters, and the Privileges Committee commissioned two advices during the year from the Clerk, as its principle advisor. Finally, the Clerk and Deputy Clerk provided four submissions to parliamentary committees.

Performance indicators for provision of advice focus on timeliness and accuracy. The office invariably provided advice in time to meet the purposes for which it was sought. Most advice is provided on a confidential basis and any decision whether to release it, and on what basis, is for the recipient to make. On numerous occasions during the year, recipients of advice published it as a contribution to public debate, at the same time subjecting it to public scrutiny. When committees seek the Clerk's advice it is almost always for the purpose of publishing it, to show the basis on which committees may have taken particular decisions or reached particular conclusions. The likelihood of publication ensures that advice is prepared to the highest standards and on the soundest possible basis.

On two occasions during the year, advice was the subject of adverse comment. Advice on the constitutionality of certain amendments to an aspect of the carbon tax repeal package as it related to section 53 was met with a call for the Clerk's resignation, a call

that betrayed a significant misunderstanding of her role. Clerks operate independently in providing impartial advice about the Senate's powers and practices. Senators are free to accept or reject advice as they choose. Ultimately, it is the Senate which decides these matters by its actions and decisions, not clerks. On this occasion, senators publicly expressed confidence in the Clerk's expertise.

On the second occasion, the then DPS Secretary used the additional estimates hearings in February 2015 to attack the Privileges Committee and advise the committee sought from the Clerk for its inquiry into the use of CCTV material in Parliament House. Although reported in the media as the committee relying on 'dodgy' advice from the Clerk, the then Secretary's claims were neither substantiated nor accepted by either of the committees involved in the matter, or by the Senate. The Clerk's advice was subsequently sought and accepted by the working party established by the Presiding Officers to review the code of practice for use of CCTV in Parliament House.

Advice provided by the office was frequently tested during estimates hearings and in other Senate proceedings, with senators seeking and relying on such advice throughout the year. Although subject to uninformed criticism, none of that advice was shown to be inaccurate.

## Procedural information

The Clerk produced issues of the *Procedural Information Bulletin* after each sitting period and each round of estimates hearings, covering all the major procedural developments and matters of procedural interest which arose. Updates on procedural and administrative matters affecting senators were also published to a new intranet site developed for senators and their staff, Senate Connect.

The Clerk also brought the 13<sup>th</sup> edition of *Odgers' Australian Senate Practice* up to date to 31 December 2014, by way of a volume of supplementary material and a consolidated online version, 13.3.

The Clerk and Deputy Clerk prepared and presented sessions on procedural matters at orientation programs for new senators in July and August 2014, as well as participating in the department's learning and development activities. Introductory briefings were also offered to three senators selected to fill vacancies in the representation of states and territories arising during 2014–15.

## Committees

The office provides secretariat support to three Senate standing committees. Advice and support met the needs and timeframes of the 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.

During the year the committee met four times and presented four reports, the main focus of which was the committee's consideration of changes to the Senate's routine of business. The adoption of the committee's Second Report of 2015 saw the incorporation into standing orders of temporary orders relating to consideration of private senators' bills on Thursday mornings and the corresponding 10 am start on Mondays, streamlining of various types of business (including routine committee extensions and authorisations to meet while the Senate is sitting), and the consolidation of opportunities to present and debate documents and reports, among others.

Among the other topics considered by the committee, its first report of 2015 recommended changes to standing order 19 (subsequently adopted) to strengthen the role of the Appropriations and Staffing Committee in overseeing security measures affecting the Senate and senators; while its second report of 2015 addressed its examination of the NSW system for third party arbitration of public immunity claims. The committee concluded that the system was not particularly amenable to adaptation for the Senate and that existing approaches, which may include third party arbitration as one of a range of approaches (but not as a general purpose remedy), were preferred.

### **Committee of Privileges**

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

The committee met 13 times in 2014–15 (five in 2013–14), presented three reports on right-of-reply matters and reported on an inquiry referred in June 2014 relating to the use of CCTV material in Parliament House. The Senate adopted the committee's finding that no contempt be found, but also adopted its recommendations addressing concerns about the use and administration of the CCTV system, including that the Parliament's CCTV Code of Practice be rewritten to emphasise the primacy of the powers and immunities of the Houses and their members. The committee made a submission to the working group undertaking that task and a new code was adopted by the Presiding Officers in May 2015.

The report of an inquiry arising from evidence given to the Rural and Regional Affairs and Transport References Committee, referred in July 2014, was pending at the end of the reporting period.

### **Committee of Senators' Interests**

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

The secretariat publishes statements of senators' interests online and prepares volumes of statements and alterations. Because a new Senate commenced on 1 July 2014, all senators were required to furnish new statements of interests. Volumes of statements and alterations were presented in July, September (new statements) and December 2014, and in June 2015. The committee presented its annual report in May 2015.

## Governance

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

During the year, the Deputy Clerk also served on the Parliamentary ICT Advisory Board (PICTAB), which oversees a strategic plan for parliamentary ICT, and on a subsidiary group which provides strategic direction and business information from across the parliamentary service.

More broadly, the Clerk liaised with her counterparts in the other parliamentary departments on matters connected to parliamentary administration, including through quarterly meetings of the four department heads.

The department continued revising its policies and processes to meet the requirements of the *Public Governance, Performance and Accountability Act 2013*, which implemented a new public sector resource management framework from 1 July 2014. The framework is intended to improve the quality of planning, performance monitoring and evaluation and the transparency and accountability of the Australian public sector. A focus in this work was the preparation of a new charter for the department's Audit Committee, to apply in the new financial year.

## Managing public information resources

SPIO has a brief to coordinate the department's information resources and improve our approaches to publishing and sharing information. The office has two broad streams of work. The first involves developing and publishing information resources, which in 2014–15 has included:

- developing a new departmental intranet and a new internal site for senators and their staff, Senate Connect, and streamlining and improving content on the parliament's website
- producing online (HTML) versions of the large number of committee reports presented to the Senate
- creating an identifiable Senate department 'look and feel' for print and online publications
- producing educational video resources, including the introduction of 3D animation, and continuing production of the *Senate Discovery* video series
- maintaining a Twitter presence, responding to questions about Senate and committee business in real time, and guiding people to relevant information resources.

The second stream of work involves project management and liaison, which has again this year focused on projects, undertaken jointly with the Department of the House of Representatives and DPS, to redevelop core business systems that:

- produce the procedural documents supporting the work of both Houses
- manage submissions to parliamentary committees and other committee documents
- publish committee reports and web pages.

Elements of these projects were implemented during the year, with some reaching their conclusion and others nearing their final stages. Completion of these projects will contribute to the Parliament's ICT strategic plan. The department is also working with DPS to consolidate ICT support for core parliamentary business systems within that department's ICT branch.

By the end of the year user testing was underway for new streamlined compilation and publication of committee reports, and significant progress had been made in developing a searchable database for estimates questions on notice, to make this rich source of accountability information more widely available.

## Performance outlook

The next reporting period will cover the second full year of the 44<sup>th</sup> Parliament, during which we expect a period of sustained legislative activity, along with a continuation of the very high levels of committee activity which have typified this parliament to date. This activity will no doubt drive the demand for procedural advice during 2015–16. Advice and support for the committees managed by the office will also be provided in accordance with their requirements.

We will continue to work with the other parliamentary departments, and in particular our IT provider DPS, to improve the systems which support the core work of the Senate and its committees, and implement the strategic plan for parliamentary ICT.

Previous reports have described the centralisation of Parliament's ICT functions within a unit in DPS. Although this involved transfer of staff positions, assets, and associated funding to DPS, the new arrangements continue to require significant ongoing involvement from the Deputy Clerk and officers of SPIO and the Black Rod's Office. In the next year the department hopes to consolidate ICT liaison activities within SPIO and identify any further activities that should properly be undertaken by DPS.

In the area of governance the next year will see our first corporate plan under the auspices of the *Public Governance, Performance and Accountability Act 2013* and the reconstitution of the department's Audit and Evaluation Committee under a new charter, and with increased independent membership. This is expected to lead to changes in the way the department examines and reports on its performance.