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SUBMISSION TO THE HOUSE OF REPRESENTATIVES PROCEDURE COMMITTEE'S INQUIRY INTO COMMITTEES

Introduction

Parliamentary committees are central to the work of today's House of Representatives. The House established a comprehensive committee system in 1987 and since then the work of committees has continued to evolve. Complemented by a number of joint committees, House committees now provide an opportunity for scrutiny of all aspects of government policy and administration. The experience gained since the establishment of general purpose committees in 1987 has shown however that House committees not only perform traditional scrutiny and accountability functions: numerous inquiries have tackled difficult but very important social, economic, environmental and legal issues. Report after report has contributed to the understanding of such issues and made recommendations – often for government action, but often of wider significance.

There is considerable debate over how the effectiveness of committees can be judged, and what indeed makes an effective committee system. Should committees be judged by how many reports they produce, how many meetings are held, or on the number of recommendations accepted by government? Or are there other aspects of committee work, including community involvement and education, which should also be assessed? How independent are committees in setting their own agenda? Are the rules governing their operations sufficiently flexible to provide committees with opportunities to fulfil their scrutiny roles and the power to achieve their objectives? Are committee members able to participate fully in the work of committees on which they serve, while still undertaking their other roles as legislators and advocates for their constituents?

Various benchmarking exercise have been undertaken internationally, with some common themes emerging. For example:

We classify the committee system of the popular house of the legislature as 'strong' when it has two of the three properties of size (over 10 committees), specialization to fit the government bureaucracy, and limitations in the number of committee memberships held by individual legislators. It is inclusive if committee chairmanships must be shared proportionally among all parties, or at least the major ones, regardless of their presence in the government.¹

¹ G Bingham Powell Jr and Guy D Whitten, *A Cross-National Analysis of Economic Voting: Taking Account of the Political Context*, published in *American Journal of Political Science*, Vol 37, No. 2, May 1993, p. 400. For information on how committee systems in some other countries compare against these categories, refer to Mattson I and Strom K, 'Parliamentary Committees' in Doring H (ed) *Parliaments and Majority Rule in Western Europe* (1995) St Martin's Press, available at http://www.uni-potsdam.de/u/l_s_vergleich/Publikationen/Parliaments/chapter08.pdf.

The operation of the House of Representatives committee system was last examined by the Procedure Committee in 1998² and various aspects of committee practice have been examined in other reports³. The Department welcomes this opportunity to examine how committees are currently structured and operating, with a view to improving their overall effectiveness.

The Procedure Committee has invited comment on the effectiveness of House domestic and general purpose standing committees, and the latter are the focus of this submission. House domestic committees have specific roles and much of their work involves the internal oversight and regulation of the House and its privileges, with clearly defined operating procedures. The establishment of a Petitions Committee and a combined Privileges and Members' Interests Committee early in this Parliament appear to be successful innovations. Some comments in this submission go beyond issues affecting the general purpose standing committees and take in joint committees, particularly where they are relevant to the demands made on Members' time and resources.

Work of Committees

Under standing order 215 (b), House general purpose standing committees may:

...inquire into and report on any matter referred to it by either the House or a Minister, including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or document.

In addition the annual reports of government departments and authorities and reports of the Auditor-General stand referred to the relevant committee in accordance with a schedule presented by the Speaker (SO 215(c)).

House committees have traditionally focused on longer term investigative inquiries rather than examination of legislation or other material. Departmental annual reports are examined by committees as part of the scrutiny and accountability process. They have also had a secondary purpose in providing a mechanism by which a committee may conduct an inquiry where a minister may be reluctant to refer a particular matter to a committee for investigation. This form of 'committee-initiated' reference has provided committees with some flexibility in determining their work programs, although the majority of references are still received from ministers. Should a committee desire to conduct an inquiry there is often a detailed process of negotiation and consultation with the relevant minister to determine the scope of the inquiry. However, there is no reason why a committee should not have the power to initiate its own inquiries.

² Standing Committee on Procedure: *Ten years on: A review of the House of Representatives committee system*, May 1998.

³ For example, see House Standing Committee on Procedure reports: *It's your House: community involvement in the procedures and practices of the House of Representatives and its committees* (October 1999); *Promoting community involvement in the work of committees* (May 2001); *Procedures relating to House committees* (November 2005).

Recommendation 1: That House general purpose standing committees be able to initiate their own references.

Bills inquiries

Although the ability to examine pre-legislation proposals or bills has been part of the relevant standing order establishing general purpose standing committees since 1987, it has only been since 1994 that House general purpose committees have undertaken bills inquiries. Table 1 provides some statistics on the number of bills inquiries undertaken since then by House general purpose standing committees.

Table 1: Bills inquiries by House general purpose standing committees

Year#	Number of bills inquiries undertaken by House committees*
1994	5
1995	2
1996	1
1999	1
2000	2
2004	1
2005	1
2008	2

Source: Work of the Session, available at: <http://www.aph.gov.au/house/pubs/wots/index.htm>

* ie bills inquiries undertaken by joint committees are excluded. Figures include exposure drafts of bills referred to House committees, or bills referred prior to introduction into the House.

where no year is listed, there was no reference to a House committee.

The Department believes that while House committees make a significant contribution to general policy debates and are central to scrutiny and accountability of the Executive, they also have the potential to play a constructive and valuable role in examining legislation. To this end, the Executive should be encouraged to refer bills, particularly those with significant community interest, to House committees for consideration.

Recommendation 2: That the Procedure Committee examine mechanisms that would encourage greater referral of bills to House committees.

Petitions

As with legislation, the standing orders have long contained the ability for general purpose standing committees to examine any petition referred to them by either the House or a Minister. No general purpose standing committee has produced a report generated from a referred petition. However, on two occasions petitions have resulted in the establishment of select committees to examine issues raised in those petitions:

- In 1963, in response to a petition from the Yirrkala community regarding excision of land from the Aboriginal Reserve in Arnhem Land⁴;
- In 1970 in response to a petition calling for the banning of kangaroo product exports⁵.

On both occasions, the committees were established following a motion being moved in the House by the Member presenting the petition.⁶

With the establishment of a Standing Committee on Petitions in the 42nd Parliament, there is now a mechanism for consideration of each petition submitted to the House. The Petitions Committee has been very active in obtaining a government response to petitions presented in the Parliament and has examined government action at public hearings. However, the Petitions Committee does not have the resources or capacity to undertake a detailed consideration of each petition, or indeed a cross-section of petitions. It would be useful for the Petitions Committee to be given the power to refer a particular petition directly to the relevant subject committee for any inquiry that general purpose standing committee felt was warranted (i.e. transferring the responsibility for referral from the House or a Minister). The subject committee could then consider the petition and, depending on its workload, examine the issue. This examination might take the form of a round table discussion or seminar, or for more complex matters, a fuller inquiry.

Such a reference should be reported to the House by the Chair of the Petitions Committee as part of the usual report to the House on petitions (currently done at 8.30 pm on sitting Mondays) and could, should the Petitions Committee so direct, suspend the requirement for a ministerial response pending the subject committee's consideration. Should a subject committee decline to undertake the petitions inquiry it should advise the Petitions Committee which would notify the House accordingly.

Recommendation 3: Standing orders be amended to allow the Standing Committee on Petitions to refer particular petitions to a general purpose standing committee for examination and report, without limiting the Petitions Committee's capacity to seek an initial Ministerial response or to follow-up an issue at roundtable meetings and public hearings.

Structural issues

Committee work is a significant component of a private Member's work. There appears to be a perception among Members that the workload from committees has increased, and anecdotal evidence suggests that Members are finding it increasingly difficult to attend meetings (in particular interstate hearings). The sitting pattern has an impact on Members' availability for committee work. Two other options, reduction in the number of committees, or reduction in the membership of committees, are also examined below.

⁴ Select Committee on Grievances of Yirrkala Aborigines, Arnhem Land Reserve.

⁵ Select Committee on Wildlife Conservation.

⁶ House Standing Committee on Procedure, *Making a difference: petitioning the House of Representatives*, August 2007, p. 9.

Sitting pattern

The typical sitting pattern for at least the last ten years has separated several blocks of sitting weeks per year with only one non-sitting week. One non-sitting week between sittings has become the norm for the Autumn and Winter sittings. After one or two weeks attending the House most Members feel under considerable pressure to attend to business in their electorates. One week breaks between periods of sittings puts Members under a lot of pressure to attend to their electorate duties at the expense of attending interstate committee hearings that will inevitably be programmed during the same week. Instituting a regular, fortnight on, fortnight off pattern of sittings throughout the Autumn, Winter and Spring sittings may enable Members to more easily accommodate both their electorate and committee obligations.

Recommendation 4: The Procedure Committee consider whether a more regular fortnight on, fortnight off pattern of sittings might assist Members in meeting their committee obligations.

Membership

There are currently 12 House general purpose standing committees, 5 domestic House committees and 13 joint committees on which Members serve. A list of current committees on which Members serve is at Appendix A. The size of each committee is set either by standing order, resolution of appointment or statute. In total there are 151 positions for government members and 105 positions for non-government members, totalling 256 committee positions to be filled by Members of the House of Representatives.⁷ Of the 150 members of the House of Representatives, 114 are available to fill committee positions⁸, a ratio of approximately 2.24 committee positions per member. An examination of membership of committees as of the end of May 2009 shows that:

- 25 are members of one committee only (22% of available members)
- 28 are members of two committees (24.5%)
- 40 are members of three committees (35%)
- 11 are members of four committees (9.5%)
- 1 is a member of five committees (1%)
- 1 is a member of six committees (1%).

In addition, 8 members (7%) do not serve on any committees.

In its 1998 report, the Procedure Committee indicated a similar ratio of committee positions to members available to serve: At that time, 117 Members were available to fill 269 positions (an average of 2.3 committee positions per Member). In terms of workload, 19

⁷ These figures do not include 2 positions on committees that are designated for filling by the Speaker and the Deputy Speaker by virtue of their position.

⁸ Excludes the Speaker, Deputy Speaker, government ministers and parliamentary secretaries, Leader of the Opposition and Leader of the Nationals. Figures as at 31 May 2009.

members served on only one committee, 91 served on two or more and 19 served on four or more. At that time there were 8 members who did not serve on any committee.⁹

The membership of committees has varied over the 20 years since the House committee system was established. Originally set at 12 (with the exception of Aboriginal Affairs which had 10 members) membership has been as high as 14 per general purpose standing committee. Membership of House general purpose committees was reduced to 10 in 1998 following a recommendation of the Procedure Committee.

It may be appropriate to again reconsider the membership of committees, and reduce all House general purpose committees, and the Petitions Committee, to either 8 (5 government and 3 non-government), 6 members (4 government and 2 non-government) or 5 members (3 government and 2 non-government). This would result in 22 fewer committee positions for the first option (11 government and 11 non-government positions) and theoretically most Members would only need to serve on two committees. That core membership group would continue throughout the life of the Parliament and should provide a strong nucleus of interested and involved members.

To allow for participation by Members in those inquiries of specific interest, the standing orders could be amended to allow for greater use of supplementary members. At present a committee can be supplemented by up to 2 members (one government and one non-government) for a particular inquiry. This provision could be amended to allow for **up to 8** supplementary members (5 government and 3 non-government), thus providing greater flexibility for Members to participate in a range of committees across portfolio areas. The actual number of supplementary members appointed for each committee would vary according to the degree of interest among Members in the subject, within the overall maximum able to be appointed. Those members would have equal rights in terms of voting etc as the core members where that specific inquiry was involved. Quorum requirements would not need to be adjusted, for either meetings of the core group as well as the enhanced wider committee group (ie retain at 3).

At present shadow ministers and shadow parliamentary secretaries are able to serve on House committees. Given the significant demands on their time and their specific policy focus, opposition spokespersons may only be able to attend where an inquiry or briefing is directly on their portfolio responsibilities. A smaller core number of committee members that did **not** include members with shadow responsibilities would hopefully result in better attendance at meetings: shadows would be able to join a particular inquiry if they wished, and this would most likely occur where an inquiry topic was directly relevant to their portfolio responsibilities.

The situation with membership of joint committees is more complicated, with numbers varying from as many as 22 House positions (Joint Foreign Affairs, Defence and Trade) to as few as 5 House members (e.g. Electoral Matters). The need to maintain relativities between

⁹ House Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, May 1998, p. 10.

the House of Representatives and the Senate would mean that reduction in overall numbers is unlikely to proceed without agreement from the Senate to reduce its own membership on joint committees. In the specific case of Foreign Affairs, Defence and Trade, membership of this committee is highly sought and any move to reduce the number of committee positions available is likely to be resisted.

Recommendation 5: The core membership of House general purpose committees be reduced, with greater use of supplementary members for particular inquiries.

Number of committees

When the current committee system was established in 1987, eight general purpose standing committees were established:

- Legal and Constitutional Affairs
- Environment, Recreation and the Arts
- Employment, Education and Training
- Community Affairs
- Aboriginal Affairs
- Industry, Science and Technology
- Infrastructure
- Finance and Public Administration.

Since that time, the number of general purpose standing committees has varied, reflecting changes in the administrative arrangements in the public sector and emerging areas of policy focus. The most general purpose standing committees established for any one parliament was 13 (for the 40th Parliament). At present there are 12 general purpose standing committees (see Attachment A for details). While the number and mandate of committees is ultimately a matter for the House to determine, the Procedure Committee may wish to consider whether some rationalisation of general purpose standing committees might be desirable.

It would be possible to maintain the current coverage of government activity while reducing the number of House committees. The experience of the Senate is relevant as they have 8 paired general purpose references and legislation committees to provide subject coverage, including for consideration of the Estimates of all government departments. These committees are:

- Community Affairs
- Economics
- Education, Employment and Workplace Relations
- Environment, Communications and the Arts
- Finance and Public Administration
- Foreign Affairs, Defence and Trade
- Legal and Constitutional Affairs

- Rural and Regional Affairs and Transport.

Among the 8 is the Senate Committee on Foreign Affairs, Defence and Trade – this would not be required by the House as members have traditionally participated in scrutiny of this portfolio through membership of the Joint Foreign Affairs, Defence and Trade Committee.

As seen in Table 2, there has also been an increase in the number of joint committees over the last 20 years. The Procedure Committee in its 1998 report, recommended that several joint committees not be reappointed, but this was not accepted by the House¹⁰. The Procedure Committee might again wish to consider whether there is an ongoing need for some of the non-statutory joint committees.

Table 2: Number of Committees by Parliament¹¹

Parliament	Number of general purpose standing committees	Number of Joint Committees
35th (1987-1990)	8 plus 1*	10
36th (1990-1993)	8 plus 2#	11
37th (1993-1996)	8 plus 2#	10
38th (1996-1998)	9	10
39th (1998-2001)	9	14
40th (2002-2004)	13 plus 1@	13
41st (2004-2007)	13	13
42nd (2008-)	12	13

Source: Votes and Proceedings; annual reports of the Department of the House of Representatives.

* Long Term Strategies Committee

Long Term Strategies and Televising of the House of Representatives committees

@ Select committee on Recent Australian Bushfires

Recommendation 6: The number of general purpose standing committees be reduced, with a consequential reallocation of portfolio coverage.

¹⁰ The Joint Standing Committees on Electoral Matters; Migration; and the National Capital and External Territories. See: Standing Committee on Procedure, *Ten years on: A Review of the House of Representatives committee system*, May 1998, p. 8.

¹¹ Excludes domestic committees

Standing orders

The powers of committees largely derive from the authority of the standing orders (or in the case of joint committees, from either their resolution of appointment or establishing act). Standing orders relating to the operation of committees and their reporting arrangements have changed on a number of occasions, the most recent being in March 2008. While the standing orders are generally appropriate and provide committees with sufficient power and direction, the Procedure Committee may wish to consider the following:

Standing orders 34, 39, 40, 41 and 192

In February and again in March 2008 standing orders were amended altering the time provided in the order of business for the presentation and debate on committee reports. Previously committee reports were scheduled for the first 1¼ hours on a sitting Monday in the chamber (12.30pm-1.45pm), along with private Members' business. A further period from 4pm to approximately 6pm on sitting Mondays was allocated for orders of the day relating to committee and delegation reports if required.

The revised arrangements moved the time for committee and delegation reports and private Members' business in the chamber to 8.30 - 9.30 pm (subsequently amended by sessional order from 8.40pm to accommodate presentation of petitions). There are considerable practical difficulties in this time frame, primarily for distribution of committee reports and publicising their presentation. This time is generally too late in the day to allow a press conference to occur; staff may be required to work extended hours to allow for the report to be published on the committee's web site, or alternatively there is a delay in its electronic publication until the next business day.

There is an option (under standing order 39(d)) to have the Speaker present a committee report and have it automatically referred to the Main Committee for debate later that day. While this option would permit the committee to publicly release the report and hold a press conference, it still delays Members being able to speak to the report until later in the evening. The whips determine which items of business the Speaker presents in the House under standing order 39(d) for debate later in the Main Committee and to date the whips have followed the practice of ensuring the presentation of all committee reports and all private Members' bills in the House, even when this results in a reduced allocation of time per report.

The current practice is for Committee Chairs to move a motion to take note of the report and to move for the resumption of debate to be referred to the Main Committee if the Table Office is informed that additional Members wish to speak on the report after its presentation. This occurs regardless of whether the report is being presented under a whips' determination or later in the week in Government business time. Under the current standing orders, committee reports are nearly always presented after 6.55 pm on Mondays—that is after the time allocated for debate to be resumed in the Main Committee and subject to the whips' determinations on speaking time limits. Therefore, the practice of referring committee reports to the Main Committee for further debate after their presentation on Mondays is impractical

and has become redundant. Were committee reports to be tabled earlier on Mondays the referral of reports to the Main Committee in the afternoon could be resumed.

The Department believes it would be appropriate to amend the House order of business to provide that the first hour of sitting on a Monday (commencing now at 12 noon), begin with petitions, followed by committee and delegation reports and private Members' business. This would allow for reports to then be referred to the Main Committee, if wished, for further debate on the report **on the same day as tabling** – rather than have the debate listed on the Notice Paper and perhaps not called on for several days or even weeks.

Recommendation 7: The House order of business be amended to move the time provided on Mondays for presentation of committee and delegation reports to earlier in the day.

An unintended consequence of having committee reports debated in either the chamber or Main Committee and at different times is that Members currently are given varying amounts of time to speak:

- In the chamber on presentation, time for statements is recommended by the whips (and endorsed by the House) and is generally 2 Members x 5 minutes each;
- Reports listed for debate in the Main Committee on Mondays also have the speaking time recommended by the whips, with a maximum of 10 minutes for each Member (although this provision is currently not used as noted above);
- Should a report be presented in the House, and a 'take note' motion moved, and the debate resumed in the Main Committee on a Wednesday or Thursday, members are allocated 15 minutes of speaking time on the report (under standing order 1 – 'Other debates, not otherwise provided for').

This variation in timing does lead to some confusion among Members. The Procedure Committee may wish to consider clarifying the time available for Members to speak on resumption of debate on committee reports. However, this should not have the effect of reducing the speaking time available for Members on committee reports. One option may be to redesignate all Government business time in the Main Committee as 'Government business and/or committee and delegation reports' (as for Wednesday and Thursday mornings) and remove reference to speaking times in the period for committee and delegation reports subject to the whips' determinations. Then, whenever debate was resumed on a report in the Main Committee, Members would have 15 minutes to speak.

Recommendation 8: The Procedure Committee may wish to consider redesignating all Government business time in the Main Committee as 'Government business and/or committee and delegation reports' (as for Wednesday and Thursday mornings) and remove reference to speaking times being subject to the whip's determinations

Standing order 235(b)

This standing order currently allows committees to ‘resolve to conduct proceedings using audio visual or audio links with members of the committee...’. While such a provision has been used on a number of occasions to allow for hearings etc it assumes that the committee is able to anticipate the need for such a ‘virtual’ meeting and pass the appropriate resolution at prior meeting where members are physically present. In particular, during the longer parliamentary breaks issues may arise that need to be dealt with, where a meeting using an audio visual or audio link would be able to address the issue. However, as no resolution authorising this is in place, committees either have to defer consideration of a matter, or incur expenditure by bringing Members together for what may be a brief meeting.

Recommendation 9: That standing order 235(b) be amended to allow committees to conduct proceedings using audio visual or audio links without the need for a prior resolution. The redrafted standing order could read: “A committee may conduct proceedings using audio visual or audio links with members of the committee...”

Standing order 237

Standing order 237 states:

Use of records of previous committees

A committee or a subcommittee may consider and make use of the evidence and records of similar committees appointed during previous Parliaments.

There has been some debate on the exact meaning of this standing order. Does it provide, for example, coverage for a committee to conduct follow-up hearings where a government response to the report of a predecessor committee is overdue? Does it give the committee the power, in ‘making use’ of the evidence and records, to amend the status of those records, either by making public something that had been accepted as a confidential document or evidence, or conversely removing the authorisation to publish (in particular removing submissions from the committee’s web site following a request from either the author or someone referred to in the submission). With the publication of material online, and the capacity of people to ‘google’ themselves and others, requests for committees to remove material is becoming more common.

A strict reading of this standing order (and standing order 242 which gives a committee or subcommittee the power to authorise publication of evidence **given before it** or documents **presented to it** [emphasis added]) would mean that only the committee that actually received the evidence has the power to authorise it (or conversely not authorise it for publication). While a subsequent committee might have access to the material, as the standing orders are currently drafted successor committees would not seem to have the power to alter the status of any evidence previously provided. It is also relevant to note that the House, by resolution, has delegated to the Speaker the power to authorise release of

committee records which have been in the custody of the House for more than 10 years (30 years in the case of confidential material). For material less than 10 years old decisions relating to the material would seem to rest with the House itself.¹²

It would be useful for the Procedure Committee to clarify the meaning of standing order 237 and the related standing order 242 to provide some guidance to committees and provide a mechanism by which they can manage the submissions of similar committees in previous parliaments.

Standing order 241

Standing order 241 currently states:

Admission of other Members

Other Members, who are not members of the committee, may be admitted when a committee or subcommittee is examining a witness, or gathering information in other proceedings. Other Members must leave when the committee or subcommittee is deliberating, or hearing witnesses in private, or if the committee or subcommittee resolves that they leave.

The standing order is silent on whether other Members in attendance may participate in the proceedings and the degree to which they might do so. For example, are they able to question witnesses? In the absence of an explicit prohibition on participation, some committees have permitted non-committee Members to participate in hearings or round tables on a case by case basis. Such involvement has always been explicitly agreed by resolution of the committee, and conversely leave to participate could be withdrawn at any stage (and certainly non-committee Members would not participate in private or deliberative meetings). The Department believes it would be useful for standing order 241 to be amended to confirm the extent to which non-committee Members who have been ‘admitted’ may participate in proceedings.

Recommendation 10: That standing order 241 be amended to read:

Other Members, who are not members of the committee, may participate, ~~be admitted,~~ with the explicit approval of the committee, ~~be admitted~~ when a committee or subcommittee is examining a witness, or gathering information in other proceedings. Other Members must leave when the committee or subcommittee is deliberating, or hearing witnesses in private, or if the committee or subcommittee resolves that they leave.

¹² *Resolution of the House regarding disclosure of evidence and documents of House and joint committees*, adopted 11 October 1984; contained in House of Representatives Standing and Sessional Orders as at 1 December 2008, p. 110.

Standing orders 255, 256

Standing orders provide little guidance to committees on interaction with witnesses. Standing order 255(d) states that “A witness before a committee or subcommittee shall be examined according to the procedure agreed on by the committee”. Standing order 256 states that “Any witness giving evidence to the House or one of its committees is entitled to the protection of the House in relation to his or her evidence”, reinforcing the provisions that exist for the protection of witnesses under the traditional power to punish those who threaten, intimidate or punish witnesses, now supplemented by the provisions of the *Parliamentary Privileges Act 1987*.

In its 1999 report, the Procedure Committee argued that:

When formal evidence is received it is important that witnesses feel confident that they will be treated fairly and with respect and that they understand the rights and obligations of both themselves and the committee. ...

Adopting firm guidelines with the official backing of the House is the first step in ensuring consistent and open practices.¹³

That report contained a draft resolution setting out procedures for interaction with witnesses. A copy of that draft resolution is at Appendix B to this submission.

In the absence of any “procedure agreed on” by individual committees, the principles contained in that resolution are used as a general guide by committee staff. Reference is also made to the proposed resolution in *House of Representatives Practice*, but the resolution itself does not have any formal standing. The Department believes that it would be appropriate for the House to endorse these (or similar) guidelines to provide clarity for all involved in committee inquiries.

Recommendation 11: That the House agree to a resolution providing procedures for interaction with witnesses in the terms set out in Appendix B.

Government responses to reports

It has long been a frustration for committees that, after significant investment of time and effort to produce a final report, that report remains without a formal government response, certainly within the target of 3 months set by all governments since 1983, and often for over 12 months or longer. In its 1998 report the Procedure Committee noted:

Members and others associated with committee inquiries expressed concern at the current procedures for responding to committee reports. Given the effort and expense

¹³ House Standing Committee on Procedure: It’s your House: community involvement in the procedures and practices of the House of Representatives and its committees, October 1999, pp. 63-64.

involved in preparing submissions it was frustrating and disappointing that government did not respond to reports in a proper and timely manner.¹⁴

The Committee at that stage recommended the process of government responses be formalised, with reference in the standing orders to the requirement for a response within three months. It also argued for a similar process to that for questions in writing, that would allow a Member to raise with the Speaker an overdue response, and for the Speaker to write to the relevant Minister. These recommendations were not agreed. However, the recommendation that the Speaker table in the House a schedule of overdue government responses to reports of House and joint committees was agreed and has occurred on a six-monthly basis since then.

The Department supports the earlier recommendations of the Procedure Committee; in particular having a mechanism where members (mostly likely Committee Chairs) might raise in the House any delay in receiving a government response to a report. The Committee might also wish to consider whether a 3 month time frame for government responses remains an appropriate target given the obvious difficulties successive governments have had in meeting that timing. A period of say 6 months might be more realistic. On the other hand, however, any relaxation of the time frame could appear as inconsistent with the aim of raising the priority accorded by Government to responding to committee reports.

Recommendation 12: Standing orders be amended to permit members to raise in the House delays in government responses to committee reports.

Recommendation 13: That the Procedure Committee consider whether a three month target for government responses to committee reports should be maintained.

Support for committees

The activities of committees along with support for the Chamber and Main Committee are central elements of the work of the House of Representatives. While the Department's overall budget is under significant pressure¹⁵, the Department is committed to continuing to support committee activities to the greatest extent possible within available resources.

Under the Parliamentary Service Act recruitment and deployment of staff is the responsibility of the Clerk of the House. Although the legal as well as the practical matters involved in the provision of staff support are the Clerk's responsibility, Clerks do consult with the Speaker in relation to departmental operations and funding matters. This reflects the Speaker's own significant responsibilities and role. In addition, the Deputy Speaker convenes meetings of Chairs and Deputy Chairs, and this group is briefed on and discusses resourcing and other matters.

¹⁴ House Standing Committee on Procedure: *Ten years on: A review of the House of Representatives committee system*, May 1998, p. 24.

¹⁵ For a fuller description of the financial pressures being faced by the department, see the departmental submission to the inquiry by the Joint Committee on Public Accounts and Audit's 2008 inquiry into the effect of the efficiency dividend on smaller agencies, accessible at: <http://www.aph.gov.au/house/committee/jpaa/efficdiv/subs/sub10.pdf>

Staff salaries represent approximately 85% of expenditure on committee services, with the balance of expenditure on administrative costs (printing, staff travel in support of committee meetings, venue/catering costs etc). These administrative costs are directly related to the level of committee activity and will vary according to where a committee might be in terms of an inquiry cycle.

In 1996-97, following significant reductions in departmental appropriations, the Committee Office was restructured to create secretariats that supported more than one committee, replacing the existing arrangements where each committee had its own secretariat. When additional committees were established, these were accommodated within existing resources. Further consolidation of workgroups occurred subsequently, with there currently being 8 secretariat work groups supporting 20 House and joint committees. Four of the work groups each support two committees; four secretariats support three committees each.

This structure has seen a significant reduction in the number of committee secretaries, with an increase in research capacity at less senior levels. It has provided for greater flexibility in movement of staff within a workgroup and indeed between secretariat groupings as the work demands have ebbed and flowed. But, the changes have not been without cost. The structure has placed greater pressure on committee secretaries in terms of managing the work of more than one committee. While staffing levels in the Committee Office have remained reasonably constant (see Table 3), the increase in committees being supported has meant a pro-rata reduction in available research and administrative capacity.

Table 3: Committee Office staffing 1992-2009

Year	Committee Office staff	Total Departmental staff	No. of committees supported	Average staff per committee
1992	68	253	17	4.00
1993	53	237	17	3.12
1994	74	290	17	4.35
1995	71	290	17	4.18
1996	70	251	17	4.12
1997	58	210	17	3.41
1998	73	257	17	4.29
1999	69	250	18	3.83
2000	67	263	17	3.94
2001	56	264	18	3.11
2002	59	264	21	2.81
2003	74	228	22	3.36
2004	64	164**	21	3.05
2005	70	160	21	3.33
2006	68	154	21	3.24
2007	65	157	21	3.10
2008	61	154	20	3.05
2009	63*		20	3.15
Average:	65		20	

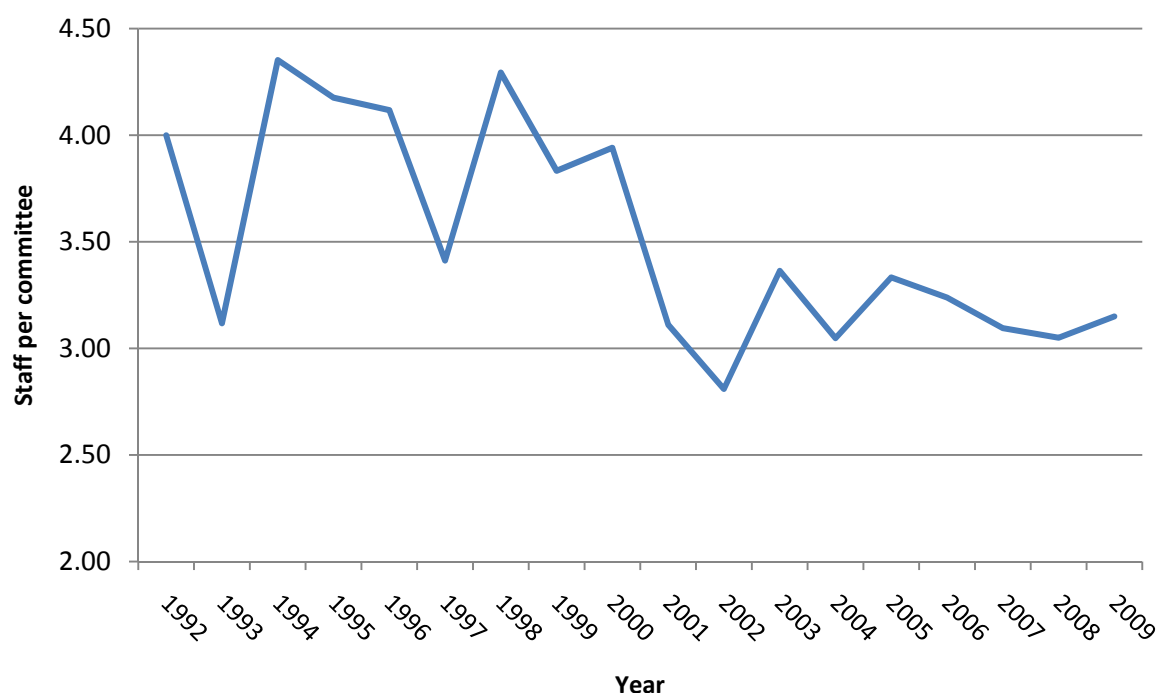
Source: Departmental annual reports.

* Estimate at 30 June 2009

** Security staff transferred to the Department of Parliamentary Services in October 2003

Using the above statistics, Figure 4 shows the nominal allocation of staff per committee supported.

Figure4 : Committee resources, 1992-2009



Source: Departmental annual reports

Through technological innovation the Committee Office has been able to maintain a high level of service to committees despite tightening resources. Technological developments such as the internet, the capacity to search submissions, exhibits and other documents electronically, and advances in word processing have enhanced the effectiveness of staff engaged on research and writing for committees and potentially the quality of briefing material and draft reports. In addition, easier access to meeting and briefing papers through the CommDocs application developed by the Department has reduced the amount of time spent on printing, collating and distributing hard copy material to committee members. The CommDocs development has also been welcomed by Members, providing as it does an on-line, secure repository of committee material. However, there is a limit to the role technology can play and it is certainly no replacement for experienced and skilled staff.

A reduction in the overall number of committees (as suggested above) may have some benefit in perhaps permitting committee allocations to be adjusted so that each work group only

supports two committees at most. However, tightening budgetary circumstances may see further contraction of staff and will inevitably put further strain on resources.

The Department would be pleased to expand on any material contained within this submission should the Procedure Committee wish to discuss any of the above proposals.

Department of the House of Representatives
July 2009

APPENDIX A

Committee of the 42nd Parliament on which Members serve

General purpose standing committees (set up under SO 215):

Aboriginal and Torres Strait Islander Affairs
Climate Change, Water, Environment and the Arts
Communications
Economics
Education and Training
Employment and Workplace Relations
Family, Community, Housing and Youth
Health and Ageing
Industry, Science and Innovation
Infrastructure, Transport, Regional Development and Local Government
Legal and Constitutional Affairs
Primary Industries and Resources

Domestic House Committees

House
Privileges and Members' Interests
Petitions
Procedure
Publications (meets jointly with the Senate committee)

Joint Statutory Committees

Australian Crime Commission*
Australian Commission for Law Enforcement Integrity*
Broadcasting of Parliamentary Proceedings
Corporations and Financial Services*
Intelligence and Security
Public Accounts and Audit
Public Works

Joint Standing Committees (appointed by resolution of both Houses)

Electoral Matters
Foreign Affairs, Defence and Trade
Library#

Migration
National Capital and External Territories
Treaties

(*staffed by the Department of the Senate
staffed by the Parliamentary Library)

Procedures for interaction with witnesses—Proposed resolution

That, in their dealings with witnesses, committees of the House shall observe the following procedures:

- (1) A witness shall be invited to attend a committee meeting to give evidence. Whether or not a witness was previously invited to appear, a witness shall be summoned to appear only when the committee has made a decision that the circumstances warrant the issue of a summons.
- (2) When a committee desires that a witness produce documents or records relevant to the committee's inquiry, the witness shall be invited to do so. Whether or not an invitation to produce documents or records has previously been made, an order that documents or records be produced shall be made only when the committee has made a decision that the circumstances warrant such an order.
- (3) A witness shall be given notice of a meeting at which he or she is to appear, and shall be supplied with a copy of the committee's terms of reference, an indication of the matters expected to be dealt with during the appearance and a copy of this resolution or a summary of its provisions. Where appropriate, a witness may be supplied with a transcript of relevant evidence already taken in public.
- (4) A witness may be given the opportunity to make a submission in writing before appearing to give oral evidence.
- (5) A witness shall be given reasonable access to any documents or records that the witness has provided to a committee.
- (6) A witness shall be offered, before giving evidence, the opportunity to make application, before or during the hearing of the witness's evidence, for any or all of the witness's evidence to be heard *in camera*, and shall be invited to give reasons for any such application. The witness may give reasons *in camera*. If the application is not granted, the witness shall be notified of reasons for that decision.
- (7) Before giving any evidence *in camera* a witness shall be informed that it is within the power of the committee to publish or present to the House all or part of that evidence, and that the House has the authority to order the production and publication of undisclosed evidence. Should the committee decide to publish or present to the House all or part of the evidence taken *in camera*, the witness shall be advised in advance of the publication. A member, in a protest or dissent added to a report, shall not disclose evidence taken *in camera* unless so authorised by the committee.
- (8) The Chair of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry.
- (9) When a witness objects to answering any question put to him or her on any ground, including the grounds that it is not relevant, or that it may tend to incriminate him or her, he or she shall

be invited to state the ground upon which he or she objects to answering the question. The committee may then consider, *in camera*, whether it will insist upon an answer to the question. The committee shall have regard to the relevance of the question to the committee's inquiry and the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the witness shall be informed of that determination, and of the reasons for it, and shall be required to answer the question *in camera*, unless the committee resolves that it is essential that it be answered in public. When a witness declines to answer a question to which a committee has required an answer, the committee may report the facts to the House.

- (10) When a committee has reason to believe that evidence about to be given may reflect on a person, the committee shall give consideration to hearing that evidence *in camera*.
- (11) When a witness gives evidence which reflects upon a person, the committee may provide a reasonable opportunity for the person reflected upon to have access to that evidence and to respond to that evidence by written submission or appearance before the committee.
- (12) A witness may make application to be accompanied by counsel or an adviser or advisers and to consult counsel or the adviser(s) in the course of the meeting at which he or she appears. If such an application is not granted, the witness shall be notified of reasons for that decision. A witness accompanied by counsel or an adviser or advisers shall be given reasonable opportunity to consult with counsel or the adviser(s) during a meeting at which he or she appears.
- (13) An employee of a department or executive agency shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of him or her to a higher level manager or to the appropriate Minister.
- (14) Witnesses shall be treated with respect and dignity at all times.
- (15) Reasonable opportunity shall be afforded to witnesses to request corrections in the transcript of their evidence and to put before a committee additional written material supplementary to their evidence. Witnesses may also request the opportunity to give further oral evidence.
- (16) Where a committee has any reason to believe that any person has been improperly influenced in respect of evidence which has been or may be given before the committee, or has been subjected to or threatened with any penalty or injury in respect of any evidence given or in respect of prospective evidence, the committee shall take all reasonable steps to ascertain the facts of the matter. Where the committee considers that the facts disclose that a person may have been improperly influenced or subjected to or threatened with penalty or injury in respect of evidence which may be or has been given before the committee, the committee shall report the facts and its conclusions to the House.
- (17) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.