



Procedural Information Bulletin

3 November 2020 • No. 348

For Budget estimates hearings 19 to 29 October 2020

COVID-safe estimates

The 2020 Budget estimates fortnight was unusual in several ways, taking place in October instead of the usual May dates due to the COVID-19 related delay to the 2020-21 Budget. Committees, witnesses and officials made adjustments to ensure that estimates hearings could take place in a COVID-safe environment. Each of the nine days of hearings had some element of video and audio participation of both senators and witnesses. Committees successfully navigated these challenges by programming adequate breaks and regular short suspensions to allow for extra cleaning. Departments and agencies also assisted by managing with reduced numbers of witnesses and officials in the building.

50 years of estimates committees

As the [*Annotated Standing Orders of the Australian Senate*](#) reminds us, the original estimates committees were established on 11 June 1970 at the same time as the first legislative and general purpose committees. Since 1994, estimates hearings have been conducted by the legislative and general purpose committees.

At establishment in 1970, there were five estimates committees named Estimates Committees A to E. A sixth, Estimates Committee F, was later added and for a short period in the early 1980s, Estimates Committees G and H were created. These committees operated only when they had been referred the budget or additional estimates, and ceased their work once a report was tabled in the Senate, commencing again when the next reference was made.

Prior to the establishment of separate estimates committees, from 1961 examination of the government's estimates of expenditure was undertaken by the Senate in committee of the whole. This restricted the answering of questions to Senate ministers. Delegation of estimates to committees in 1970 gave senators direct access to the officers responsible for administering the various government programs and developing policy advice to government. It therefore supported a far greater degree of scrutiny and offered "access to previously unimaginable levels of information".¹

The earlier practice of estimates scrutiny being undertaken in committee of the whole has had a significant influence on present practice, including the requirement in [*standing order* 26\(2\)](#) that estimates must be held in public, and involve senators asking for explanations of proposed expenditure from ministers in the Senate or officers.

¹ Rosemary Laing (ed), *Annotated Standing Orders of the Australian Senate* (2009), p. 20.

Explanations from officers

While the term “officers” is not defined, it has been taken in practice to mean any employee of a publicly-funded agency and can include employees of the public service, statutory authorities and government corporations and boards. In addition to the usual departments and agencies, a number of publicly funded boards and corporations were called to give evidence, including the Naval Shipbuilding Advisory Board, Defence Housing Australia, the Financial Adviser Standards and Ethics Authority and Snowy Hydro Limited. The Board of the Australian Postal Corporation declined an invitation to attend, citing a clash in dates, although the committee has foreshadowed convening further hearings. (During the hearings, one senator foreshadowed a motion in the Senate directing the Board to appear.)

During earlier rounds of estimates questions have arisen as to whether officers may be asked to give evidence in relation to roles they no longer hold. This has included circumstances where questions might not be relevant to the program of a particular committee, because of the resolution allocating different portfolios to each committee: see Bulletins [323](#) and [333](#). Two variations on this theme occurred during this round of hearings. First, the Legal and Constitutional Affairs Legislation Committee invited an officer of the Department of Home Affairs to answer questions connected to a former role in the department, on the basis that no question of relevance arose. The officer availed himself of the right to refer questions to a superior officer. Secondly, questions were asked of the Secretary to the Treasury in the Economics Legislation Committee on 26 October, relating to his time as Secretary to the Infrastructure Department. That department had appeared before the Finance and Public Administration Department the previous week. However, the Chair allowed the questions, partly on the basis that the Secretary was willing to answer them.

While witnesses expect to take questions from senators in the relevant estimates committees, it is less common to respond to questions from ministers. During evidence from the Sydney Harbour Federation Trust to the Environment and Communications Legislation Committee, the Minister representing the Minister for the Environment, Senator Birmingham, asked a question about the status of a brick building in the 10 Terminal precinct at Mosman, Sydney—a set of buildings that were built in 1941 as a British military base.

Public interest immunity

There were relatively few disputes over public interest immunity claims this estimates round, although several witnesses took questions on notice to determine whether to make such claims.

The Community Affairs Legislation Committee accepted a public interest immunity claim made by the Minister for Government Services in relation to Centrelink’s income compliance program. The claim was made on several bases, including possible prejudice to legal proceedings, the need to maintain confidential communications between the Commonwealth and its legal advisers, and confidentiality of Cabinet deliberations. Similar claims have been rejected by the Community Affairs *References* Committee and by the Senate: see Bulletins [346](#) and [347](#).

The Finance and Public Administration Legislation Committee discussed the sub judice convention during questions to officials from the Department of Finance in relation to three employees charged with fraud offences. The convention is a self-imposed restriction on debate or questioning which seeks to avoid prejudice to proceedings before a court. It involves the Senate or a committee weighing the danger of prejudice to those proceedings against the public interest in accountability to the parliament. In this regard, both the sub judice convention and the public interest immunity process are intended

to help the Senate and its committees to determine where the public interest lies. In practice, the process of receiving and determining public interest immunity claims may provide a better means for determining these matters, particularly where a committee initially has little information on which to make its own assessment.

Executive accountability

Unsurprisingly, issues related to the global COVID-19 pandemic were the focus of a large number of estimates questions, and included:

- funding to the COVAX facility, an international initiative to ensure any COVID-19 vaccine is widely available in developing nations
- the COVID-19 Relief and Recovery Fund to support various industries during the pandemic
- the impact of COVID-19 on the international education sector
- misinformation about effective treatment of COVID-19
- the definition of a COVID-19 ‘hotspot’
- the impact of the pandemic on aged care residents.

Other areas of expenditure of public funds which received close examination by senators included:

- issues arising from a number of ANAO audits including *Purchase of the ‘Leppington Triangle’ Land for the Future Development of Western Sydney Airport* and *Award of a \$443.3 Million Grant to the Great Barrier Reef Foundation*
- changes to delivery services and executive bonuses awarded by Australia Post
- international fossil fuel emissions targets
- consular response to invasive searches of Australian passengers at Qatar airport
- the National Housing and Homelessness Agreement
- support services for bushfire affected communities
- eligibility for *Jobkeeper* payments
- budget measures to target serious and organised crime
- management of Southern Bluefin tuna.

RELATED RESOURCES

[Dynamic Red](#) – updated continuously during the sitting day, the Dynamic Red displays the results of proceedings as they happen.

[Senate Daily Summary](#) – a convenient summary of each day’s proceedings in the Senate, with links to source documents.

Like this bulletin, these documents can be found on the Senate website: www.aph.gov.au/senate

Inquiries: **Clerk’s Office (02) 6277 3364**