



Working with the Scrutiny of Delegated Legislation Committee: Guidance for Agencies and Departmental Liaison Officers

This document provides a general overview of the work practices of the Senate Standing Committee for the Scrutiny of Delegated Legislation to assist agencies and departmental liaison officers.

Agency correspondence

The committee secretariat, acting on the committee's behalf, will often seek additional information or clarification from agencies directly before the committee escalates a matter to the relevant minister. The committee will not publish the content of any correspondence received from an agency. However, the committee will publish a concise record of the instruments in relation to which it is engaging with an agency in its regular report to the Senate, known as the Delegated Legislation Monitor. This record includes the name of the instrument and the relevant scrutiny principles. The committee will also record any undertakings that an agency makes to address committee scrutiny concerns in the Monitor.

Ministerial correspondence

The committee will typically write to the responsible minister to seek advice where it considers that the information provided by the agency is not sufficient to address its concerns, or where the instrument raises significant scrutiny concerns which require ministerial involvement. In contrast to agency correspondence, both the committee's request, and any ministerial response received, will be published on the committee's [website](#).

Timeframes for responses

Generally, a one week timeframe is provided for agencies to respond and a two week timeframe for ministers to respond. The committee's timeframes for responses are designed to enable it to conclude its consideration of an instrument before the instrument's disallowance period expires or, in the case of instruments exempt from disallowance, to allow the committee to report to the Senate in a timely manner. If you require further time to respond, please email the secretariat at sdlc.sen@aph.gov.au to request an extension.

If the committee is unable to conclude its consideration of a disallowable instrument before the original disallowance period expires, it will give a 'protective' notice of motion to disallow the instrument. This extends the disallowance period by another 15 sitting days from the sitting day after the notice is given.

Briefings

Where appropriate, the committee may invite officials to attend a private briefing to enable the committee to further explore its scrutiny concerns. The committee has found this to be a useful process to assist it in resolving its scrutiny concerns.

Disallowance

As noted above, the committee will give a 'protective' notice of motion to disallow an instrument where it is unable to conclude its consideration of a disallowable instrument before the original disallowance period expires. In addition, the committee may give such a notice where the committee requires an undertaking to be implemented before it can conclude its consideration of the instrument. The committee will usually withdraw a 'protective' notice where it receives a satisfactory response or confirmation that any outstanding undertakings have been implemented.

The committee may also give a notice of motion to disallow an instrument where it considers that the instrument raises significant, unresolved scrutiny concerns and the committee has therefore resolved to recommend to the Senate that the instrument be disallowed. In these circumstances, the committee will advise the relevant minister in writing of its recommendation and will publish a summary of its scrutiny concerns in the Monitor.

All notices of motion to disallow are recorded on the [Disallowance Alert](#).

For more information on the disallowance process see [Odgers' Australian Senate Practice](#) and [Guide to Senate Procedure No. 19 - Disallowance](#).

Undertakings

The committee regularly asks the responsible minister or agency to make an undertaking to address the committee's scrutiny concerns. For example, the committee may ask the minister or agency to amend an instrument or an explanatory statement. Often agencies or ministers will make an undertaking to address the committee's scrutiny concerns in order to pre-empt a formal committee request.

The Monitor lists all outstanding undertakings and undertakings that the committee is aware have been implemented since the tabling of the previous Monitor. To ensure that the Monitor is accurate, please notify the committee secretariat when an undertaking has been implemented (for example, when an amending instrument or replacement explanatory statement has been registered). The committee expects undertakings to be implemented in a timely manner and generally before the relevant instrument's disallowance period expires. Where an undertaking is not implemented in a timely manner the committee will contact the agency to seek advice as to why this is the case.

Contact details

If you have any questions, please do not hesitate to contact the committee secretariat by phone on (02) 6277 3066 or by email to sdlc.sen@aph.gov.au. Further information is also available on the committee's [website](#).

Agency and ministerial responses should be sent by email to sdlc.sen@aph.gov.au. Ministerial responses should be signed by the relevant minister and addressed to:

Chair
Senate Scrutiny of Delegated Legislation Committee
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