



PARLIAMENT of AUSTRALIA
Joint Standing Committee on the Parliamentary Library

25 September 2014

Senate Finance and Public Administration Committee
Parliament House
Canberra ACT 2600

Dear Committee Secretary

Inquiry into the performance of the Department of Parliamentary Services

The Joint Standing Committee on the Parliamentary Library wishes to make a submission to the Senate Finance and Public Administration Committee inquiry into the performance of the Department of Parliamentary Services.

This submission focuses on the fourth term of reference: the senior management structure of DPS and arrangements to maintain the independence of the Parliamentary Librarian.

Background

The Australian Parliamentary Library was established in May 1901 during the very first session of the new federal Parliament. Until the 1960s, it served as both a Library to the Parliament and as a Library to the new nation, combining the roles of the current Parliamentary Library with those of the National Library of Australia. Its Research Service was established in 1967. Although there had been earlier consideration of rationalising the administration of the Parliament, the Parliamentary Library existed as a separate agency until its merger with the Joint House Department and the Department of the Parliamentary Reporting Staff in February 2004 to form the Department of Parliamentary Services (DPS). The genesis of the amalgamation was the need for the Presiding Officers at the time to identify budget savings.

The Library's role is to provide high quality information, analysis and advice to all senators and members in support of their parliamentary and representational roles, and to do so in a timely, impartial and confidential manner whilst maintaining the highest standards of scholarship and integrity. The office of the Parliamentary Librarian is established as an independent statutory office. In addition to his/her accountability to Parliament as a whole, the Librarian reports directly to the Presiding Officers and to the Joint Standing Committee on the Parliamentary Library on the performance of his/her functions.

Independence of the Parliamentary Librarian

The independence of the Parliamentary Librarian, and by implication the Library, is a matter the Committee takes extremely seriously. As is detailed below, this independence is grounded on a statutory foundation, which is given expression in a range of operational and administrative measures.

In the Committee's view, independence in this context is taken to have four aspects, namely independence from:

1. direction or influence by Executive Government
2. direction or influence by the Department of Parliamentary Services in relation to the exercise of the Librarian's statutory functions
3. financial influence through actual or threatened budget reallocations within DPS and
4. influence from any political party, interest group or policy agenda.

Legal basis

The statutory office of Parliamentary Librarian is established by Division 3 of the *Parliamentary Service Act 1999* which, inter alia enumerates the functions of the office (and accordingly of the Library), specifies the method of appointment and qualifications of the Librarian and the reporting requirements of the office, and codifies the role of the Library Committee. It also requires the provision of resources for the Parliamentary Librarian through an annual Resource Agreement.

Statutory office of Parliamentary Librarian

The functions of the Parliamentary Librarian are set out in 38B of the Act:

- a) to provide high quality information, analysis and advice to Senators and Members of the House of Representatives in support of their parliamentary and representational roles; and
- b) to undertake such other responsibilities within the joint Department, consistent with the function set out in paragraph (a), as are conferred in writing on the Parliamentary Librarian by the Secretary of the joint Department with the approval of the Presiding Officers.

The establishment of the position as a statutory office ensures that, while the Librarian sits administratively within the Department of Parliamentary Services and for certain purposes answers to the Secretary of that department, in his/her statutory duties the Librarian may not be directed.

The continued independence of the Parliamentary Librarian is established by the requirement at subsection 38B(2) of the Act that the Librarian's function be performed:

- a) in a timely, impartial and confidential manner; and
- b) maintaining the highest standards of scholarship and integrity; and
- c) on the basis of equality of access for all Senators, Members of the House of Representatives, parliamentary committees and staff acting on behalf of Senators, Members or parliamentary committees; and
- d) having regard to the independence of Parliament from the Executive Government of the Commonwealth.

The appointment and termination provisions for the Parliamentary Librarian largely mirror those applying to the Secretary of the Department to ensure that the Presiding Officers, rather than the secretary of the joint department, have final responsibility for the appointment and termination of the Parliamentary Librarian.

The intent of the requirement that extra functions can be conferred on the Parliamentary Librarian only with the approval of the Presiding Officers (subsection 38B (b)) is to ensure that the Parliamentary Librarian cannot be overburdened with extra responsibilities to the detriment of his/her role in providing library services to senators and members.

Joint Standing Committee on the Parliamentary Library

The Joint Standing Committee on the Parliamentary Library is appointed at the commencement of each Parliament. The Committee for the 44th Parliament was established by motion by the House of Representatives and Senate on 21 November and 2 December 2013 respectively. Its terms of reference are to:

- A. consider and report to the President of the Senate and the Speaker of the House of Representatives on any matters relating to the Parliamentary Library referred to it by the President or the Speaker;
- B. provide advice to the President and the Speaker on matters relating to the Parliamentary Library;
- C. provide advice to the President and the Speaker on an annual resource agreement between the Parliamentary Librarian and the Secretary of the Department of Parliamentary Services; and
- D. receive advice and reports, including an annual report, directly from the Parliamentary Librarian on matters relating to the Parliamentary Library

The Committee comprises representatives from both chambers and major and minor parties. The Committee takes an active role in the work of the Library, meeting four times a year in deliberative session and dealing with issues out of session as required. In addition to formal reporting, the Committee's meetings provide an opportunity for a free flow of information between its members, the Librarian and other senior Library staff.

The composition of the committee enables opposition, government and minor party senators and members a voice in the resourcing and operation of the Library, and is an important mechanism in ensuring its independence from the Executive.

Reporting to the Presiding Officers

The independence of the office (and its accountability to Parliament) is further underpinned by the Act conferring on the Parliamentary Librarian direct reporting lines to the Presiding Officers and to the Library Committee.

Accordingly, any issues relating to resourcing, client advice, publications, confidentiality, privilege or concerns over bias or interference, may be addressed by the Librarian directly with the Committee and with the President or the Speaker.

The Act also requires the Librarian to report on the performance of his/her functions to the Library Committee at least annually (section 38H), and to provide an annual report to the Presiding Officers as part of the Department's annual report. This is tabled in Parliament and thus ensures a transparency and accountability in the performance of the Library.

Resource Agreement

As required by the Act (section 38G), the Parliamentary Librarian agrees each year a separate Resource Agreement with the Secretary of DPS.

The Resource Agreement specifies the operational resources and collection budget provided to the Parliamentary Librarian by the Secretary of the Department of Parliamentary Services to enable the provision of library and research services to senators and members and other clients. It also details the services provided by the Secretary to the Librarian and the services provided by the Library to the rest of DPS.

This is then considered by the Library Committee which provides advice to the Presiding Officers before they take a decision whether or not to approve it. The intent of this provision is to ensure that the Parliamentary Librarian, the Secretary of the Department, the Presiding Officers and the Library Committee all have a role in the development of the resource agreement.

The Resource Agreement thus provides a greater degree of accountability and transparency in the level of the Library's resourcing and services than would otherwise be possible. It also provides the Librarian with budget autonomy within the framework of the annual Agreement.

The Committee notes that the Library is only one of the calls on the Department's Budget; and the Librarian and the Secretary each year must negotiate an equitable outcome that will enable the Library to fulfil its statutory role while still enabling the provision of other core services to the Parliament. The year to year nature of the Agreement also has some impact on the Library's capacity for forward planning.

The Resource Agreement has enabled successive Library Committees to assess proposed changes to the Library's resourcing and the likely impact of such changes to services to parliamentarians and their staff. Without a separate Agreement, it would be all too easy for these changes to be invisible within the larger departmental accounts. Perhaps more specifically, the separate agreement also provides the Committee with the opportunity to raise concerns with the Librarian and with the Presiding Officers before any proposed changes are agreed and put into effect.

For example, in 2013, as in previous years, the Committee wrote to the Presiding Officers expressing concern at the significant reduction in the Library's resources over time, resulting in the loss of a number of specialist researcher positions and cuts to the collection. We were happy to report that this year, following the release of the 2014-15 Budget, the Committee were able to write to the Presiding Officers noting the modest increase in the Library's resources, allowing some degree of restoration of capabilities.

Parliamentary Library Annual Report

The final structural element is the separate Parliamentary Library Annual Report. In much the same manner as the separate resource agreement, it provides an additional level of transparency and accountability around the Library's work.

We note that in its 2014 review of annual reports, the Senate Finance and Public Administration Committee commented favourably on the Parliamentary Librarian's most recent Annual Report noting that:

the presentation of performance information for the Parliamentary Library was clear and accessible. Deliverables and KPIs, as presented in the PBS covering quality, quantity and prices, were provided in tabular form and included trend information for the last three years. Performance tables were followed by brief commentary on the results.¹

General requirements for independence

Finally, we note that these Library specific elements complement the general obligations created under the Parliamentary Service Values, applicable to all members of DPS, particularly:

- (a) The Parliamentary Service provides professional advice and support for the Parliament independently of the Executive Government of the Commonwealth.
- (b) The Parliamentary Service provides non-partisan and impartial advice and services to each House of the Parliament, to committees of each House, to joint committees of both Houses and to Senators and Members of the House of Representatives.

Similarly, the Parliamentary Service Code of Conduct provides that:

A Parliamentary Service employee must ... maintain appropriate confidentiality about dealings that the employee has with either House of the Parliament ...

¹ Finance and Public Administration Committee, *Annual Reports (no. 1 of 2014)*, 19 March 2014, page 11.

Staff that breach the Parliamentary Service Values or Code of Conduct may be subject to disciplinary action pursuant to the Act.

Operational implementation

The independence of the Parliamentary Library is given further substance through formal governance papers. These are released under the authority of the Parliamentary Librarian after endorsement by the Library Committee and provide detailed guidance and elaboration of the principles set out in the legislation, particularly in relation to the scope and prioritisation of work, and maintaining standards of quality, accuracy and impartiality through processes of quality control, editing and clearance.

Of particular relevance are:

- 5.1 Parliamentary Library Statement of client services
- 5.2 Responses to client requests.
- 5.12 Parliamentary Library Research papers and Background notes
- 5.13 Preparing and publishing Bills Digests
- 5.16 Parliamentary Library Blog, FlagPost

We would also note several important feedback mechanisms (in addition to the Committee) that the Parliamentary Librarian uses to gather, and respond to, the views of clients.

The first is a comprehensive survey of client satisfaction that is conducted by independent consultants once for every parliament. The surveys use a mixture of questionnaires, interviews and focus groups to illicit a nuanced picture of how clients use the library's various services and how they rate them.

The second is *Governance Paper 5.17—Parliamentary Library feedback* that sets out detailed processes for responding to complaints. This ensures that any instances of bias, inaccuracy or poor quality raised by a senator or member are brought to the attention of the Parliamentary Librarian who personally investigates and responds to every case.

Concluding comments

The independence of the Parliamentary Librarian was a key issue in the Parliament's deliberations in considering proposals for the amalgamation of the parliamentary departments, in relation to both the initial resolutions that created the Department of Parliamentary Services in August 2003 and the Parliamentary Services Amendment Bill 2004.

In the light of ten years' experience of the operation of these provisions, the Committee considers that this statutory basis, especially when underpinned by the operational and administrative measures outlined above, continues to provide a firm foundation for ensuring the independent advice required by senators and members.

Yours sincerely

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Co-Chair

Ms Gai Brodtmann MP

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