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Successful delivery of professional and non-partisan services in a partisan environment

On Socks and Bees and everything in between: Navigating the Political Environment – Culture, Constraints and Controversies

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Rising on the Adjournment debate in the House of Representatives on 12 February 2003, Mr Ross Cameron, the member for Parramatta, said:

In the leftover 70 seconds I want to record that I attended the gym yesterday and arrived without a pair of socks. As I was wondering what to do, a kind stranger produced a clean pair from his bag and offered them to me in a random act of kindness. The random actor was Bill from the Bills Digest Group within the Parliamentary Library. I felt that it was appropriate to recognise the contribution made by the producers of the Bills Digests. Listeners to the House of Representatives may not be aware of the extraordinary contribution that is made to our speeches by the fastidious and scholarly research undertaken within that group...I felt it was appropriate that we as a chamber record our appreciation for their professionalism and service to this parliament and to the nation.

I asked the amused rhetorical question on this feedback: 'Is there was anything we can't, won't or don't do to cater for the needs of the Senators and Members of the Australian Commonwealth Parliament?! Of course there is – and there must be. And this is one of the issues to be addressed in what follows in this session, the theme of which is the successful delivery of professional and non-partisan services in a partisan environment.

Of the many issues that could be tackled under this heading I will focus in this paper on three:

- the 'illegitimate' client¹ request
- the misuse of briefs or papers provided to clients

- the question of the political affiliation of staff.

1. The ‘illegitimate’ client request

What will fall into the category of the illegitimate client request naturally will depend on the mandate and the charter of the relevant parliamentary library or research service. In the Australian Commonwealth Parliament, for example, we do not respond to requests from the public², we do not allow access to academics³ and we do not respond to constituent letters or requests⁴ because MPs have electorate office staff to do this for them. The Department of the Parliamentary Library’s (DPL) Information and Research Service (IRS) is resourced to provide Members of Parliament and their staff with information, analysis and advice to carry out their parliamentary and representational duties. There is a great demand for services and, to ensure the best possible services within that framework, there must be limits.

A Statement of Client Services sets out in broad terms what that entitlement contains and what priorities apply. Within certain limits, Senators and Members have absolute priority, closely followed by their staff and the staff of Committees. Former Senators and Members, their family, members of other parliaments, other parliamentary libraries and departments of state have some entitlement, the latter on account of the reciprocal assistance we so often get from them.

This, of course, poses a number of dilemmas in a situation in which MPs may not be fully aware of the limits to their entitlement to services and may, in any case, seek to work around the rules. The *Statement of Client Services* appears in a document which has a very good recognition factor among clients and is generally well used, namely the *Guide to Services*.

Most important of all, however, is the fact that the *Statement of Client Services* has the authority of the Joint Library Committee of the Parliament behind it. This is a Committee consisting of 14 Senators and Members which is chaired by the President of the Senate or the Speaker of the House of Representatives. Moreover, there has been discussion in the Library Committee of overuse and misuse of IRS services motivated by a concern for equity of access to all MPs, the protection of the focus of services on the delivery of quality professional information, analysis and advice the parliamentary and representational purposes and also by undue pressure on staff.

Some MPs will genuinely not know that they are not entitled to this or that – just as they genuinely often – and in spite of a rigorous marketing campaign – will not be aware of the full range of services to which they are entitled. When the need arises, these usually take quite kindly to advice that we cannot do this or that, for this or that reason and some have even suggested they are surprised by how rarely we set limits.

To assist staff understand service limits – an effort just as important as making MPs aware of them because, for credibility, this policy must be applied absolutely consistently to all or leave a perception of partisanship – we engaged all staff in a major exercise to identify the ‘illegitimate request’ when the information and research services were combined into a single client service in 1996. From that followed the development of the *Client Service Entitlement* matrix on which staff can draw in their negotiation of request with clients.

Things we do not do:

- excessive photocopying because we are not resourced to provide a photocopying service
- copy material for non-parliamentary clients⁵
- provide legal, medical, financial or taxation advice for personal and not parliamentary or representational purposes because staff do not have professional indemnity
- search for personal information not on the public record on other MPs, public figures or their families
- respond to huge, amorphous, trawling requests, especially those to tight deadlines, (e.g. everything the Prime Minister has ever said about Goods and Services Tax, GST, in the almost 30 years since he entered Parliament)
- respond to requests more properly the province of other parliamentary departments (e.g. the Parliamentary Education Office is resourced to increase awareness of the Parliament and how it works, especially in schools)
- respond to constituents' inquiries (as opposed to brief MPs on issues of concern to their constituents)
- assist MPs or their families with their academic studies
- over service
- do the work Committee staff are paid to do - e.g. assess submissions (except highly technical submissions where IRS has the expertise & committee staff do not).

Implementation

It is all well and good to have a clear *Statement of Client Services*; the challenge is its effective implementation. The power imbalance between the requesting member and the IRS staffer is great and can create its own problems. Staff are advised to make the limits clear to MPs and, if the explanation is not accepted, to refer the problem to their Director or to the Head. Should there be a recurring problem, this will be discussed by the Head with the MP on a routine client call⁶.

Client entitlement is not black and white. As with everything else in a highly charged political environment, the key is judgement – and common sense. And always, if we cannot respond, we do our best to suggest other ways or other places where help may be found⁷. If exceptions are made to the rules, then it needs to be clearly explained that it IS an exception 'on this occasion' – and the opportunity taken again to explain the limits.

This requires an investment in staff training and support. Staff need to be given the tools, the framework and perhaps even the words to assist them to respond in the case of difficult requests or difficult clients. Most important of all is strong support from the top and, ultimately, in the Australian case, from the Presiding Officers and the Library Committee.

2. The Misuse of Briefs or Papers Provided to Members of Parliament

The publicly available product of the Australian Commonwealth Parliament's Information and Research Service can be found at <http://www.aph.gov.au/library/>. Generally referred to as General Distribution Papers (or products), GDPs, this makes up, in recourse terms, approximately 25% of output. These are quality, impartial, balanced assessments of the issue at hand drawing on information publicly available at the time of the (usually speedy) production and subjected to rigorous quality control procedures.

The commitment of considerable resources to GDPs is a primary means to build up the organisation's intellectual capital and maintain expertise in key areas of interest to the parliament. It is also a primary mechanism to enable staff to respond readily, immediately and, as necessary, briefly to the day to day inquiries of greater and lesser complexity that Senators and Members routinely make. Internet presence is also an important part of the IRS's public profile and community services obligation, thereby contributing to peer recognition and the development of valuable networks. As such, when GDPs are drawn on, attribution by clients and the community is both expected and welcome.

Thus when a committee for example reproduces in its Report an IRS 'foundation paper' setting out the background, context and issues for an inquiry, this contribution is now acknowledged. Or a journalist, increasingly frequently basing an entire feature article on an IRS GDP, ideally cites and sources it appropriately⁸. And, increasingly frequently too, GDPs are referenced in the academic literature and used in course work at schools and universities.

The majority of IRS output, however, approximately 75% is generated by individual requests. The term used to describe this is 'directed' information or research and, by definition, it remains confidential to the Senator or Member concerned. These requests can include an extraordinary broad range – from the apt quote, to some international comparisons to give context to the Australian subject matter for a speech, through background briefings for meetings or visits, some points for the Adjournment or for an opening, or even to the development of alternative policy options for a Shadow Minister. These responses are provided to the client's specific direction and written along the lines they suggest. Because they are thus 'directed' they may not be balanced and impartial – and as such should not be attributed to the IRS.

All individually commissioned work is the clients' to use as they wish - without attribution. To remind them of this, responses carry a disclaimer and, as a routine work practice, staff are asked to repeat the point at every opportunity.

But politicians will be politicians – and there will be those who breach this rule. One reason is the very good one – the credibility of the Parliamentary Information and Research Services. Members and Senators like to cite IRS briefs because of the organisation's credibility. Apparently, 'Research carried out by the Department of the Parliamentary Library...' has a caché and a clout that 'Senator Bloggs says...' does not. Indeed, one member, when taken to task for citing individually commissioned work said, 'Oh! But they'll believe you; they won't believe me!' But the danger is that, quoted out of context, IRS could be seen to be partisan.

There is misuse of IRS tailored briefs and this will undoubtedly continue. The protection is the disclaimer and the stand taken in the breach: the explanation is that this particular piece of writing was indeed directed research, written to prescription not as an independent advisory and must be seen as such.

So why make such a commitment to the individually tailored response? Because all the feedback from independently commissioned external evaluation and ongoing feedback mechanisms over the years tells us that this is the part of the service that Senators and Members value most highly. As a client service in a competitive information environment, it would be foolish to do less than capitalise on the specialist parliamentary nous that IRS staff

uniquely develop, their independence and comparative advantage, and respond to meet this niche market.

The DPL, of which IRS is the client service delivery point, is independent; it does not promote (or oppose) the policy of the Government or of the Opposition of the day. Rather it provides the best independent and professional advice in the time available. But as well, if asked to do so, responses will be framed to suit the perspectives of the requesting MP. To know and understand every aspect of the issues at hand, networks and sources include any and all available – departments, lobby groups, academics – but IRS is beholden to none. This independence is a protection, as is the widespread support the DPL and its IRS enjoys across the Parliament.

3. The Question of Political Affiliation

Over the years a great deal of interest has been expressed in the Parliamentary Libraries and Research Services Section of IFLA in the question of appropriate policy on the political affiliation of staff. It was discussed in Boston and in Glasgow in workshops on *Managing the Political Environment*⁹. In Glasgow, the feeling of the meeting appeared to be incredulity that staff could be seconded to – or recruited from – Members' or Ministers' offices, or that anyone with a known political affiliation could be employed.

This is perhaps one of the most fraught issues with which parliamentary libraries and parliamentary research services have to deal. Because participants in this conference come from often very different political and cultural environments, it is one on which consensus is unlikely to be achieved. Nonetheless the attempt to draw out some aspects of it from the Australian model may assist work through this issue and frame guidelines most appropriate in differing polities.

Somewhat flippantly but to make a strong and very important point, I have said to overseas visitors 'isn't it a wonderful comment on the quality of Australian democracy that the Government pays us to help the Opposition oppose!' But this is in fact not quite accurate: the Government pays us to assist the Parliament – all parties which make it up – to hold the Government to account. This is indeed a democratic point of which Australia can be very proud.

Nonetheless, to play that part effectively is occasionally to be a burr in the Government's saddle. But now that both major parties likely to form governments have been in opposition for considerable periods of time since there has been access to the range and quality of information, analysis and advice that IRS now offers, both appreciate full well the very important role IRS can play for them at this time. The Opposition front bench – whichever party is in opposition – tends to be the single most significant client group. The reasons are obvious: oppositions do not have departments of state to assist nor the number of personal staff to do the key policy development work that effective oppositions must do if they are to offer a credible alternative to the government of the day to the voting public. IRS assists considerably in this task – and at the same time continues to provide whatever advice and assistance is required by members of the Government, including Ministers, some of whom continue to call on it in spite of their access to the far larger resources of their departments.

One paradox to arise is that the quality of the responses they enjoy and the quantity of work done leads to the high regard that makes IRS a natural recruitment pool for new ministers in

new governments. Australian law requires that staff be released for this purpose and Australian law requires that they may return from whence they came. Consequently, for example, there is one current member of IRS's staff who spent ten years in Ministers' offices of the now Opposition and there is one member of staff currently on secondment to a Shadow Minister's office.

Australian law, too, does not allow discrimination in employment on the grounds of, among other things, political opinion. Apart from Australia's position as signatory of the International Covenant on Civil and Political Rights 1966 (ICCPR) and the International Labour Organisation's Discrimination (Employment and Occupation) Convention 1958 (ILO III), there is, as well, the Workplace Relations Act of 1996 (WRA) and the Members of Parliament Staff Act 1984 (MoPS) which governs the employment of staff by members, senators and ministers. One object of the WRA is the prevention and elimination of discrimination on a number of grounds including political opinion. Section 170CK states that an employer must not terminate an employee's employment for a number of reasons, including political opinion. The object of the Members of Parliament Staff Act is to reflect the fact that such staffers were not and are not necessarily partisan and to require departments of state to release – and to take back – public servants who wished to be seconded to MPs offices¹⁰.

Of course people who work in Parliament House have political views. Part of the strength of staff is the interest and enthusiasm they have for the Parliament and the political process. But the culture is that staff leave those views at the front door when they come to work. This enables them to deal fairly, impartially and with equal energy and enthusiasm with all political comers – even those with whose views they may differ – or even find distressing as occurred recently in the case of the emergence of a new party promoting some controversial policies. Even though few were likely to sympathise with those policies, staff were absolutely professional in responding to their requests and did so with the same dedication as for any other MP, as was illustrated by explicit expressions of appreciation of the excellence of service. Just one member of staff felt the need to declare a conflict of interest on the grounds of the apparently racist policies of this party and a consequent inability to work for them. This declaration was appreciated and could be accommodated.

So, how does the Australian legal framework affect choices the IRS makes in employment? Are people with known political affiliations employable in the Parliamentary environment? Generally, Australia's obligations in law do not allow for discrimination in employment, including for political opinion. The *Parliamentary Service Values* and the *Parliamentary Service Code of Conduct* ensure that any such opinions do not influence staff in the course of their parliamentary duties and provide for action to be taken should they do so. These have the authority of the Presiding Officers, that is, the President of the Senate and the Speaker of the House of Representatives. And from them flows a culture and work practices which vigorously promotes and defends them.

The *Parliamentary Service Values*:

...

- the Parliamentary Service provides professional advice and support for the Parliament independently of the Executive Government of the Commonwealth
- 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 to Members of the House of Representatives...

- employment decisions in the Parliamentary Service are based on merit.’

...
The *Parliamentary Service Code of Conduct*:

- ...
- a Parliamentary Service Employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with Parliamentary Service employment...

and

- a Parliamentary Service employee must not make inappropriate use of:
 - a) inside information; or
 - b) the employees duties, status, power or authority;

in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person.

...

The *Parliamentary Service Code of Conduct* and the *Parliamentary Service Value* are underwritten by an act of Parliament, the *Parliament Service Act 1999*, which sets out procedures for breaches which can range from counselling, through reduction of salary, to dismissal. Although the reason was not political partisanship, its strength was illustrated, by a case earlier this year when these sanctions had to be used. An employee was first reprimanded and then, after repeating the offence, an investigation followed which concluded by recommending dismissal. The employee chose to resign before this could be put into effect.

An earlier case in the context of recruitment was alleged to involve political discrimination and an objection was lodged with the Human Rights and Equal Opportunity Commission. After protracted deliberations and legal assistance, HREOC came down in support of the DPL decision. This was that in spite of sound technical and professional claims to the position, the applicant could not demonstrate sound judgment, particularly in the context of a sensitive political environment. Even as the candidate was in the middle of an application for a position in the Parliament, he was writing inflammatory *Letters to the Editor* criticising various policies of the government of the day.

I recall a Canadian Senator remark at the Ottawa *Comparative Legislative Research Services Seminar* in 1998 saying that ‘it left a bad taste in the mouth’ when a research staffer took up a position with a politician, or vice versa. This sums up well the threat that this poses to that very fundamental issue of trust between Parliamentary information and research service providers and the consumers of those services, their parliamentary clients. Truth to tell, we would doubtless prefer this not to happen but, for reasons already explained we have to live with it and manage it. There is thus at the very least a very strong expectation that the staffer concerned will keep their head well down – and probably go beyond the call of duty to establish, or re-establish, their professional and impartial credentials among those clients who may have cause to question them. It is a credit to the staff concerned and to the vast majority of MPs who respect the strong culture and values of the DPL – that it can be made to work.

Conclusion

Perception is everything in the hugely sensitive political – and possibly sometimes paranoid – environment of the Parliament. There may well be a huge difference between perception and

reality – but that is not the point. In one case, for example, an Opposition Member drew to my attention a perception of a conflict of interest which is making for discomfort, in this case because the relevant specialist is married to the public servant responsible for managing the Government’s case in a certain sensitive committee inquiry.

Perception or reality it must be dealt with and dealt with with a view to maintaining the integrity of the IRS and the confidence of the client. This requires maturity and common sense at all times from all staff - and is perhaps one reason for the flat structure at relatively senior levels and the relatively ‘mature’ character of staff employed by the IRS.

And of course, this helps to make us ready, willing and able to cope with all that our clients put upon us and to rise magnificently, as we so often do, to some amazing challenges!

I began my presentation with a story about socks and I will finish it with a story about bees to illustrate some of the extraordinary circumstances into which we get ourselves by being part of the parliamentary process. When I was a young foreign affairs analyst working in our old Parliament House, a certain Member of Parliament came into my office and asked me would I drive him to the Lodge, the Prime Minister’s residence, that evening with two beehives because all the Commonwealth car drivers had refused to take him. At the appointed hour, off we set and... .

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¹ The term ‘client’ is used to describe users of the Department of the Parliamentary Library’s Information and Research Services, i.e. Senators, Members, their staff, Committees, their staff and staff of other parliamentary departments.

² By Act of Parliament in 1961, the National Library was created out of the Parliamentary Library in its own building with its own charter. This freed the Parliamentary Library to focus on Parliamentary business and parliamentary clients and freed it from a collecting responsibility. The DPL has first call on the resources of the National Library. The National Library Act of 1961 also separated the Archives Division of the Parliamentary Library and it became the Commonwealth Archives Office within the Prime Minister’s Department.

³ A special provision is occasionally made for an academic if there is particular reason, eg the need for access to material only the Department of the Parliamentary Library holds.

⁴ A careful distinction needs to be made between constituents’ requests and the need of an MP for briefing on an issue of concern in the electorate.

⁵ The Copyright Act 1968 allows copying by staff of Australian parliamentary libraries for Members of Parliaments only. Section 48A states:

The copyright in a work is not infringed by anything done, for the sole purpose of assisting a person who is a member of Parliament in the performance of the person’s duties as such a member, by an authorized officer of a library, being a library the principal purpose of which is to provide library services for members of the Parliament.

⁶ As one of six feedback mechanisms, the Heads seek to call on all Senators and Members at least once in the life of a Parliament to discuss usage patterns, promote new services or services apparently underused in this case, and to elicit feedback on services including any suggestions for improvements to services.

⁷ Electorate office staff have been provided with resource lists, for example on Commonwealth Government departments and programs, welfare payments, immigration inquiries, etc in a Tip Sheet linked to the *Guide to Services* and periodically re-advertised.

⁸ See for example Verona Burgess, “The never-ending story, thus far” *The Canberra Times*, Sunday 22 June 2003 referring to Ian Holland’s Chronology *Changes in the Australian Public Service 1975–2003* or Alan Ramsey, “A scramble of bruised egos with egg on faces”, *The Sydney Morning Herald*, Sat 27 April 2002 referring to Scott Bennett, Andrew Kopras and Gerry Newman’s Research Paper *Commonwealth Election 2001* and “Sun state gains a seat” *The Australian*, Monday 18 February 2002 drawing from Gerry Newman’s Research Note *Possible Electoral Redistributions During the 40th Parliament*.

⁹ See ‘Managing the Political Environment: Issues Arising in the Provision of Information and Research Services to Members of Parliament’, Dr J R Verrier, IFLA Boston 2001.

¹⁰ See Ian Holland *Members of Parliament (Staff) Act: Background*, Research Note No 14 15 October 2002).

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