

Hawker Britton Guide

Participating in the inquiry process

November 2013

This Hawker Britton Guide covers participation in the inquiry process, including providing written submissions to inquiries, the process of attending and giving evidence at Parliamentary Committee hearings and further opportunities to participate in the inquiry process.

The Hawker Britton Occasional Paper on the Parliamentary Committee system and its inquiries is available [here](#).

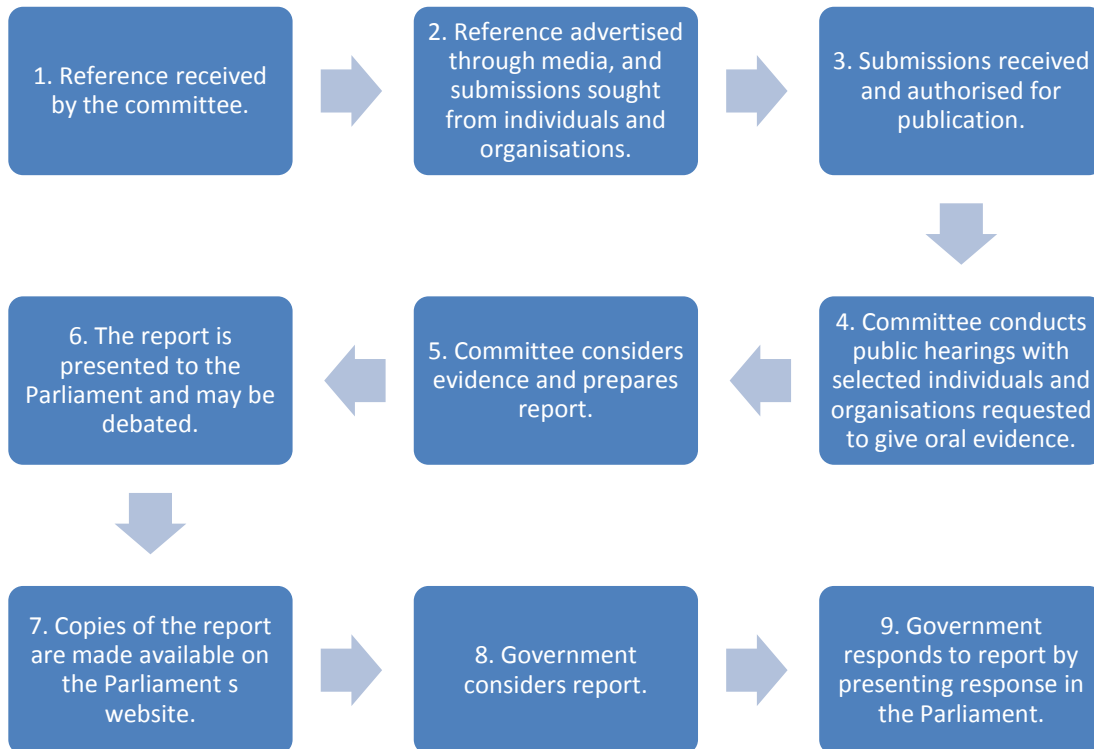
The inquiry process at a glance.....	2
Participating in an inquiry: written submissions.....	3
Content	3
Form	3
Submission	3
Publication	4
Privilege.....	4
Participating in an inquiry: giving evidence at a hearing.....	5
Attending a hearing	5
Confidentiality.....	7
(i) Media presence	7
(ii) In Camera Hearings.....	7
Process	8
After the hearing.....	9
Participating in an inquiry: further input	10
The Report and Response	11

The inquiry process at a glance

The scope and purpose of each inquiry undertaken by a Committee is outlined in the terms of reference for the inquiry. Depending on the type of Committee, these may be referred to the Committee by the House, the Senate, by a Minister, or by a law, or be developed by the Committee itself.

In practice, the terms of reference for a new inquiry are often developed by negotiation between the Committee and the Minister who is responsible for the subject area of the inquiry.

The following table summarises the key stages in the inquiry process.



There are a variety of ways individuals and organisations to participate in the inquiry process. The next section provides a guide to the two most common methods of participating in inquiries: written submissions and/or providing oral evidence at hearings.

Participating in an inquiry: written submissions

The first step in an inquiry is to advertise its terms of reference in the press and invite people and organisations to send in written submissions. Committees may approach people or organisations known to be interested in the subject or thought to have specialist knowledge directly to make submissions. However, any individual or organisation may make a submission to a parliamentary committee.

Content

Submissions should be prepared solely for the Committee's inquiry and should endeavour to be relevant to the terms of reference. Submissions may contain facts, opinions, arguments or recommendations. It may cover all the points in the terms of reference or only some of them, depending on what is relevant and of interest to the individual or organisation. Supporting documents may also be attached.

Importantly, analysis of existing material on the subject matter of the inquiry is made by the Committee Secretariat, and information is usually sought from the relevant government departments or agencies. As such, persuasive submissions by individuals or organisations tend to articulate an idea or argument that goes beyond the relevant literature and offer a position for the Committee to consider.

Form

There is no prescribed form for a submission to a parliamentary committee. Submissions may be in the form of a letter, a short document or a substantial paper. They may include appendices and other supporting documents.

In terms of structure, the terms of reference of the inquiry often provide a helpful guide to structuring a submission. It is helpful for the Committee if a summary is included at the front if the submission is longer than a few pages.

Supplementary submissions may also be lodged during the course of an inquiry to provide additional information or comments on other evidence.

Submissions that are published on Committee websites will most likely be converted to pdf format. As such, they may have a different appearance to the original document submitted.

Submission

Most inquiries are now accepting submissions via the [online system](#). Submitting online is secure and is suitable for uploading sensitive and confidential material. Individuals or organisations submitting for the first time need to register on the [My Parliament](#) website.

For individuals or organisations who wish to submit via post, submissions should be sent to the secretary of the relevant Committee. Individual committee addresses are contained in inquiry advertisements and are available on the Australian Parliament's website. Part of the submission can be made confidential by clearly indicating via a note on the front page what part(s) of the submission should remain confidential and by placing the confidential aspects of the submission on separate page(s).

Submissions may also be made via email. For individuals or organisations seeking to provide a submission via email on a confidential basis, the actual submission document or documents must not contain contact details and document metadata properties should be removed. Importantly, submissions that refer to or contain sensitive material and confidential information should not be submitted to an inquiry via email as it is not a secure medium.

Publication

The majority of submissions to House, Senate or Joint committees are published on the internet via the committee website. If an individual or organisation does not wish their name to be attached to the submission when it is published on the internet, this must be made clear to the Committee from the start.

Privilege

Once a committee has authorised the release of a submission, subsequent publication of it is protected by parliamentary privilege. This means that the content of the submission, once the committee has accepted it, cannot be used in legal proceedings. However, if a submission 'reflects adversely' on another person—for example, by making accusations of dishonesty or corruption—the committee will send the comment to that person for reply.

Participating in an inquiry: giving evidence at a hearing

As part of their investigative role, House, Senate and Joint Parliamentary Committees conduct hearings at which individuals and representatives of organisations are questioned on an open inquiry topic. These public hearings are an opportunity for witnesses to clarify and expand on their written submissions and allow Committees to seek additional information from a range of sources.

Committees determine who is called to a hearing. The Committee conducting the inquiry may request the attendance of an individuals and organisations who have provided written submissions or have specialist knowledge, or government and non-government agencies known to have an interest in the matter under inquiry.

Committee secretariats contact witnesses to advise of the date, time and place of a hearing. Public hearings can be held away from Canberra, in state capitals and regional centres and by videoconference.

An organisation called to give evidence at a hearing can generally decide who will represent it at the hearing, although the Committee may request a specific individual to attend. Organisations should send witnesses to the hearing with an appropriate level of knowledge of the issues.

Organisations often send more than one representative, although usually no more than four are sent. Organisations should advise the Committee Secretary as soon as possible after being called to a hearing of the names of the people who will attend.

Witnesses who are unable to attend in person may be allowed to give evidence to the Committee by videoconference or teleconference.

An individual or organisation may decline to attend the hearing. Committees do not normally require people to give evidence but have the power to summons a witness if warranted by the circumstances. Two recent committees (the House Standing Committee on Infrastructure and Communications and the Senate Select Committee on the NBN and the NBN Strategic Review) have compelled witnesses to attend.

If witnesses wish to tender additional documents relevant to the inquiry, these should be provided in time for the Committee Secretariat to distribute to committee members prior to the hearing. Alternatively, sufficient copies should be brought to the hearing for all Committee members.

Attending a hearing

Committee hearings are generally held at Parliament House. However, occasionally Committees conduct hearings in other locations.

Between 9.00 am-5.00 pm, entry to Parliament House is through the main entrance at the front of the building. Information on parking at Parliament House, including maps, is available [here](#).

Visitors go through security, which includes a metal detector and x-ray scanning of bags. Once inside, witnesses should visit the security desk (to the right inside the front doors) and identify themselves as a witness appearing before a Committee hearing. Security will provide directions to the hearing room.

There is no dress code, although most witnesses wear business attire or neat casual attire.

(i) What to do on arrival

Witnesses should introduce themselves to Committee Secretariat and complete a 'witness detail form' for use by the Parliamentary Reporting Staff prior to giving evidence. These forms are often sent to witnesses before the hearing and have a specified completion date.

Witnesses may observe proceedings before being called to give evidence if it is a public hearing.

(ii) Room set-up

The Committee members will sit in chairs behind a row of standard looking tables facing the rest of the room (the people facing the camera in the photo).

The witness table will directly face the Committee members (the row of people furthest away and facing away from the camera sitting in the red chairs).

In all but one of the Committee rooms, the Committee members sit on the same level as the witnesses.

The Committee Secretariat is also present and sits off to the side between the Committee and the witnesses.

The public are allowed to attend Committee hearings and sit behind the witness table (the people sitting in the white chairs). This can include public servants, the staff of Members and Senators, visitors to Parliament that day and journalists.

The first witness will generally start by sitting at the witness table. Name plates will be provided. Other witnesses may wait outside the hearing room or inside the room in the public seating area.



There will be microphones on the table to assist with the recording of proceedings. The Parliament House hearing rooms also all include television cameras which allow their outside broadcast (both to the Parliamentary in-house TV network and live streaming over the Internet). In the top right of the picture, there is one recessed into the wall of the committee room.

Confidentiality

(i) Media presence

Generally, the general public including the media are allowed at hearings. They do not participate in the process in any way, although they are allowed to record while sitting in their seats. However, many journalists choose to use the live feed from the built-in cameras and microphones to watch and record hearings, so may not be present in the hearing room.

The Committee can prohibit the media from recording witnesses or can impose conditions on members of the media. It will balance principles of open proceedings, public interest, Committee effectiveness and fairness to the witness.

Members of the media may approach a witness to request separate media interviews outside of the hearing. However, they are not allowed to film in the areas around the hearing rooms or conduct interviews without consent.

(ii) In Camera Hearings

Most hearings are public. However, if a witness considers that information to be provided by them, or requested by a member of the Committee, is confidential they may make application to have their evidence or part of their evidence heard in camera.

This can be before or during the hearing of evidence, although it is preferable to let the Committee Secretariat know in advance.

Following an application for evidence to be taken in camera, the Committee considers the application and informs the witness whether it will grant the application.

If an application is not granted, the Committee will provide reasons for that decision.

Although evidence taken in camera is recorded by Hansard, it is not made available to anyone but members of the Committee and the witness concerned.

However, the Committee has the power to publish the evidence at a later date if the circumstances warrant such action. If the Committee gives an undertaking to the witness that in camera evidence will not be disclosed, such evidence would only be released by the Committee with the written agreement of the witness.

Process

(i) Preliminary matters

The Chair will declare the Committee hearing open and will usually remind the witnesses that although the Committee does not require the giving of evidence under oath, the Committee hearing is a proceeding of Parliament and warrants the same respect as proceedings of the House. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of Parliament.

The Chair also usually reminds witnesses that evidence given will be recorded by Hansard and will attract parliamentary privilege.

When the Committee is ready, the Chair will call witnesses to the table. The Chair will ask the witness to state their full name and the capacity in which the witness is appearing before the Committee. The Chair may also ask if the witness requests that the evidence or part of the evidence to be taken in camera.

The Chair then gives witnesses the opportunity to make a short statement (usually about five minutes) before proceeding to questions. Providing it is not inflammatory this is rarely interrupted, although the Chair may ask if the statement can be tabled to maximise time for questions.

(ii) Questioning

Committee members may then ask questions, with the Chair usually asking the first question. Other Committee members are then given the opportunity to ask questions. Sometimes they do it one at a time, other times they share it around and it is more conversational.

For witnesses who have provided submissions to inquiries, questions from the Committee are generally to clarify aspects of the written submission or to seek further views on other matters to do with the inquiry. Committees also often ask witnesses about evidence provided by other witnesses or submitters.

Committee members may interject into a line of questioning or seek clarification mid answer – but providing the witness is being cooperative – the Committee members tend to let the witness have their say.

Priority for questions is usually given to the full members of Committees, with participating members given an opportunity either by agreement or once all full members have completed their questioning.

Difficult questions

Witnesses who do not understand any question should ask for clarification.

Witnesses who cannot answer a question may inform the Committee that it goes beyond their knowledge or expertise. Witnesses may also ask to ‘take the question on notice’ if they require further time to consider an answer or to consult further materials. This will require the witness to provide a written response to the Committee later.

The Committee must approve requests for witnesses to consult legal counsel during a hearing. Organisations/witnesses should contact the Committee Secretariat to pass on this request to the Committee.

(iii) After questioning

At the end of the questioning, the Chair may ask the witness if there is anything they wish to add. They will also remind the witness that they could be recalled to answer questions or further information may be sought by the Committee. This is especially the case if the witness has undertaken to come back with further information.

The Committee then usually takes a short break or will move on to the next witness.

Witnesses can then leave or stay and listen to the subsequent witnesses.

Occasionally the Committee may ask a witness to remain, but usually the Committee allows witnesses to leave after questioning.

(iv) Addressing Committee members

The Chairperson of the Committee should be called 'Chair'.

Other Committee members should be addressed as 'Senator' or 'Senator [Surname]', (for example 'Senator Wong') or if he/she is a Member of the House of Representatives, 'Mr/Ms [Surname]', or an honorific if appropriate (ie. Dr [Surname]).

The members of the Committee will be identified by nameplates.

After the hearing

All proceedings are transcribed (off the audio) and the Committee sends witnesses a draft transcript of evidence (known as a 'proof') so that they can correct any transcription errors before it is finalised. Only minor errors should be corrected for the process of the published Hansard. If a witness wishes to formally correct or add to an answer, a letter should be sent to the Committee Chair.

The final transcript goes up on the Parliament website 2-3 days later.

When hearings are finished, the Committee prepares a report which is tabled in the Senate or House of Representatives and becomes a public document. On occasions some members of a committee do not agree to all recommendations in the report and they may add a minority or dissenting report. Reports are published on the Committee's website and copies are available from the Committee Secretariat.

Further information

Upcoming Public Hearings are listed [here](#).

A list of House, Senate and Joint Committees is available [here](#).

The full Government guidelines for witnesses before Committees is available [here](#).

For more information, contact the relevant Committee's Secretariat or your Hawker Britton consultant.

Participating in an inquiry: further input

Following the submissions and hearing process, Committees meet in private in order to discuss the progress of their inquiries, consider the evidence, reach decisions and take votes, and to agree on their reports.

However, on occasions committees may try to stimulate debate on an inquiry and encourage submissions by issuing a discussion paper or an interim report.

Some of these approaches used at the beginning of an inquiry to conduct initial discussions to obtain general community views on a matter—such as seminars, workshops or focus groups—may be used to trial preliminary conclusions that the Committee has reached.

These approaches may also be used after the final report of the inquiry has been published in order to gain feedback from experts and the community.

These informal proceedings can be very valuable to a committee in giving direction to an inquiry. The information gathered using mechanisms other than the traditional public hearing process does not have the status of formal evidence but it can inform the committee and be used in its reports provided the processes used are explained.

However, depending on the circumstances, such informal proceedings may not be covered by parliamentary privilege.

The Report and Response

Committees are required to produce a report to represent to the House, the Senate, or in the case of Joint Committees, both Houses of Parliament.

Usually the Chair of a Committee prepares a draft report and submits it to the Committee for consideration. In practice, the Chair gives drafting instructions to the Secretary who prepares a draft with secretariat assistance. After a final report has been agreed to, committee members may add a minority or dissenting report or attach relevant conclusions and recommendations. While committees usually attempt to reach consensus, dissenting reports are not uncommon.

The process of reporting is completed when a copy of the report, signed by the Chair, is formally presented to the relevant House of Parliament. Until that time the report is under embargo and its contents may not be revealed. Debate may take place after the report has been tabled.

Except in the case of committees concerned with the administration or procedures of the Parliament itself, the Committee reports usually recommend government action. This can include, for example, the introduction of legislation, a change in administrative procedures or review of policy. Such action is the responsibility of the Executive Government rather than the Parliament.

The Government responds to such committee reports by way of a written statement to the relevant House. In recent years it has been government policy to respond to a report within three months of its presentation to the Parliament although it may be longer before a response is provided. In 2010 the House passed a resolution requiring the Government to respond to committee reports within six months of their presentation. Both houses table reports each six months which monitor whether government responses have been provided to committee reports.

The Government may accept, or partially accept, a committee's recommendations, and announce its intention to take certain action. Some recommendations may be rejected, while the Government may announce that it wishes to give further consideration to others.

Sometimes the Government may implement recommendations made by a committee through changes in legislation or government administration or policy without a formal response having been published.

The information collected by committees and their reasoned conclusions can also contribute to policy thinking and community debate.

A full list of completed House and Joint reports is available [here](#).

Completed Senate reports are available [here](#).