

Public Sector Attitudes to Parliamentary Committees

A chairman's view

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This article will give a parliamentary perspective on public sector attitudes to parliamentary committees. I will briefly examine the traditional theories of ministerial and public sector accountability before exploring how the nature of accountability has changed over the years.

Parallel with these changes in the focus of accountability have come demands to improve the scrutiny and review the role of Parliament, particularly through its committees. This has resulted in more public servants appearing before parliamentary committees than ever before; hence, it is timely to consider this issue. In all of this, we need to ask the question: Is this fair?

I will highlight how I see public servants reacting to this situation and finish by raising some matters for further discussion.

Ministerial/public servant accountability

- Ministerial responsibility: individual and collective. The Westminster model involves a single chain of accountability.
- Traditional view of public servant accountability is through the minister. However, there has been a change in focus of accountability. Now there are different levels of accountability, with the devolution and decentralisation of authority and responsibility (moved from the minister, the chief executive officers, and now any individual within the public service), along with an increase of accountability requirements back up the line.

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- It is generally agreed that the traditional doctrine is no longer valid. There is a risk of centralised control (no one responsible). Reinterpretation of responsibility raises several questions, such as:
 - If a minister is not fully accountable to Parliament, then who is?
 - Should public servants be directly accountable to Parliament?
 - If there is any area of public sector activity for which no one can be held to account by Parliament, then what meaning is there in responsible government?
- There are different viewpoints of public servant accountability, ranging from public servant view (ministerial responsibility), the view that public servants provide information to supplement ministerial accountability, and the WA Royal Commission view that officials should be fully accountable.

Parliamentary committees

- Parallel with changes in focus of accountability have come demands to improve the scrutiny and review role of Parliament as the principal accountability institution (for example, Commission on Government and several parliamentary committees). More generally, there has been a public demand for accountability and openness, as public money is at stake.
- One reform has been to establish more committees/committee systems. For example, this will occur in the WA Parliament after the next election, when a series of portfolio-related standing committees will be established.
- Coupled with these developments has been an increasing demand for public servants to appear before parliamentary committees to answer questions and explain or justify their own and the department's actions.
- At the same time, most ministers only attend parliamentary committees on a voluntary basis. Therefore, as the focus cannot be on ministers, it falls to public servants to answer questions.
- Hard to know where to draw the line in questioning public servants, as they are now involved in policy development, review and formulation. Need to find some balance between accountability of public servants for administration and political responsibility of ministers.
- Need also to balance rights of committee members to seek the truth (keeping in mind the extensive range of powers at their disposal), and the rights of public servants to protect their careers, especially against aggressive, hostile committees. For example, in any parliament, there will be well-resourced and poorly-resourced committees, well run and poorly run committees, committed and non-committed members. Some members may only be out to seek 'glory' for themselves by making the public servant a scapegoat.

- Public servants' attitude — love/hate relationship.
- Sometimes happy to appear before a committee. Depends on type of committee and what is at stake, for example, whether they are just supplying information (such as estimates) or whether their and the department's reputation is on the line, such as a Public Accounts Committee investigation (referred to in the media as 'all powerful').
- Can be an opportunity to explain positions, policy directions, raise issues, attitudes, operations etc. That is, as an information-gathering process and beneficial for departments who benefit from a committee's inquiry (for example, if contrary to minister's view).
- Usually, though, no desire to appear. Belief that committee does not know how government operates, neither experience nor understanding of what government or department is about. Also sometimes seen as 'scalp' hunters. Opportunity to get deeper in the mire; risky for them; no or little advantages to appear (for example, Global Dance/Constitutional Centre inquiries).
- To succeed, from a public servant's point of view, is not to reveal anything extra (yes/no answers), obfuscation, diffuse blame, refer to minister. Contrast with committee, which wants answers. If they do not ask the right questions, will not get the right answers.
- Seen as an unfair process, that now any public servant can appear. See their role as a 'public servant', for which they get crucified for carrying out their role. Big question: Is it fair? Parliamentary committees can finish their careers (for example, Ross Drabble (Main Roads)).
- PAC has limited guidelines for public servants ('If you are an officer of the State or the Commonwealth government, you will not be asked to express an opinion on matters of policy and, if necessary, you will be given reasonable opportunity to refer questions asked of you to either your superior officer or the minister'). Commonwealth has drafted extensive guidelines as to how public officials should conduct themselves during hearings.

Conclusion

- Parliamentary scrutiny through committees here to stay.
- New committee system in WA Legislative Assembly. Increased role for committees and members (will specialise).
- Concomitant increase in public servants appearing as witnesses.
- Need to develop a working relationship between public servants and parliamentary committees.

Issues for discussion

- How to balance between extracting relevant information while observing due process?
- Should public servants be required to defend their minister, the department and justify mistakes, at the risk of falling on their sword?
- Public service accountability does not mirror what happens in the private sector, where a certain amount of failure is tolerated, even rewarded (for example, chief executive officers getting paid out).
- What penalties should be imposed if a public servant is found liable?
- Should there be a direct line of accountability between public servants and Parliament?
- Should there be published guidelines as to the role of ministers, officials and their relationship with parliamentary committees?
- Should there be training for public servants, and even chairmen and committee members?
- Should the appearance of witnesses before parliamentary committees be more in line with witnesses appearing in courts? ▲