

The Responsibilities of the Privy Council Office

Table of Contents

Canadian Cataloguing in Publication Data

Privy Council Office.

The responsibilities of the Privy Council Office

Text in English and French on inverted pages.

Title on added t.p.: Les responsabilités du Bureau du Conseil privé.

Issued also in electronic format on the Internet computer network.

ISBN 0-662-64558-8

Cat. no. CP22-63/1999

1. Canada. Privy Council Office.
2. Administrative agencies -- Canada.
 - I. Title.

J193.R37 1999 352.3'4'0971 C99-980427-8E

I Introduction

II Cabinet Government and the Prime Minister

III The Privy Council Office

IV Conclusion

I Introduction

This paper outlines the specific functions of the Privy Council Office (PCO) under the leadership of the Clerk of the Privy Council and Secretary to the Cabinet, the linkage between these functions and the responsibilities of the Prime Minister, what the PCO does in the day-to-day operations of government, and how it is organized to carry out these functions.

In brief, the primary responsibility of the PCO is to provide public service support to the Prime Minister, to Ministers within the Prime Minister's portfolio, and to the Cabinet in order to facilitate the smooth and effective operation of the Government of Canada.

II Cabinet Government and the Prime Minister

Canada is a constitutional monarchy. This means that the executive government and authority of and over Canada is vested in the Crown which is personified by the Queen and represented by the Governor General. The Governor General almost invariably acts on the advice of Ministers who have seats in Parliament and who are responsible to the House of Commons; this forms the basis of Canada's system of responsible government. In their constitutional capacity as advisers to the Crown, Ministers are sworn as members of the Queen's Privy Council for Canada and hold office at the pleasure of the Sovereign as represented by the Governor General.¹ Those individuals holding ministerial office at a particular point in time comprise the Ministry of the day.

The individual and collective responsibility of the members of the Ministry to Parliament form the basis for responsible government in Canada. Ministers are legally responsible for the policies, programs and administration of their departments, and answer personally to Parliament for their decisions and actions in carrying out their portfolio responsibilities. Ministers together are responsible to Parliament for the policies of the Government overall, and for the policies and programs of each Minister as a member of that Government. Individually and collectively, Ministers remain in office only as long as they retain the confidence of the House of Commons.²

The practical result of the principles of ministerial responsibility is that Ministers can fulfil their personal duties and functions and their obligations as members of the Ministry only by acting in concert. Effective government ultimately requires consensus among Ministers about the goals, policies, and programs to be undertaken. It is in the forging of this consensus that the Prime Minister plays a pivotal role in making Cabinet government work.

The Prime Minister

The Prime Minister's principal duty is to create and sustain the unity of the Ministry required to maintain the confidence of the House of Commons. The Prime Minister oversees the activities of government to ensure that the individual responsibilities of Ministers are exercised in a manner acceptable to the ministry as a whole. The leadership provided to the Ministry by the Prime Minister is thus central to the existence of a stable and cohesive government.

The roles and responsibilities of the Prime Minister in maintaining unity among Ministers have evolved as part of the broader evolution of the Cabinet system of government in Canada. The Prime Minister is mentioned in very few statutes, and does not have specific statutory powers, duties and functions comparable to those of Ministers in individual portfolios.³ At root, the position of the Prime Minister rests on the exercise of powers in three interrelated areas:

- recommending the appointment of individuals to key positions;
- organizing the Cabinet, including portfolio composition and mandates; and

- providing leadership and direction to the Government.

In utilizing these powers, the Prime Minister relies on a broad base of advice and support. The advice and assistance provided by colleagues in the Cabinet is clearly integral to the effective performance by any Prime Minister. In this regard, the Deputy Prime Minister and Ministers in the Prime Minister's portfolio⁴ also play a pivotal role in assisting the Prime Minister in effectively carrying out his many functions.

Support for the Prime Minister

The Prime Minister is supported directly on a day-to-day basis by staff working in two organizations within the Prime Minister's portfolio. The personal, political staff of the Prime Minister comprise the Prime Minister's Office (PMO), with the PCO providing public service support to the Prime Minister across the entire spectrum of policy questions and operational issues facing the Government.

Together these organizations provide advice and support from different perspectives on the issues of daily concern to the Prime Minister. The maintenance of the appropriate relationship between the political staff of Prime Ministers and their public service staff is particularly important. As described in 1971 by Gordon Robertson, then Clerk of the Privy Council and Secretary to the Cabinet:

"The Prime Minister's Office is partisan, politically oriented, yet operationally sensitive. The Privy Council Office is non-partisan, operationally oriented yet politically sensitive.... What is known in each office is provided freely and openly to the other if it is relevant or needed for its work, but each acts from a perspective and in a role quite different from the other."⁵

Although separate organizations, a close working relationship between the PMO and the PCO is essential to ensure that consistent, timely advice is provided on the subjects of greatest importance to the Prime Minister:

- *The Prime Minister's Office* supports the Prime Minister in carrying out the functions demanded of a head of government and of a leader of a political party and Member of Parliament. The political staff of the PMO provide advice on policy development and appointments, draft speeches and other public statements to be delivered by the Prime Minister, brief the Prime Minister on matters related to proceedings in the House of Commons and manage the relations of the Prime Minister with Ministers, with caucus and with the party in general. The PMO also plans the Prime Minister's schedule, organizes the Prime Minister's public announcements and relations with the media, processes prime ministerial correspondence and handles matters arising in the constituency of the Prime Minister.
- *The Privy Council Office* is the public service department of the Prime Minister. As outlined below, under the leadership of the Clerk of the Privy Council and

Secretary to the Cabinet, the PCO provides direct support to the Prime Minister across the range of functions and responsibilities of the head of government.

III The Privy Council Office

Evolution of the Functions of the Clerk of the Privy Council

At the first meeting of the Governor in Council held on July 1, 1867, the Clerk of the Executive Council of the former Province of Canada was sworn in as Clerk of the Privy Council of the new Canadian federation by the Governor General.

The position was largely clerical until March 1940, when the Clerk of the Privy Council was given additional duties as Secretary to the Cabinet. The duties were set out in an Order in Council (PC 1940-1121), and included the provision of support to Cabinet and Cabinet Committees through preparing agendas, taking minutes and recording decisions - functions that are at the heart of the Cabinet decision-making system.

In 1992, the role of the Clerk of the Privy Council and Secretary to the Cabinet as Head of the Public Service was given a statutory basis in the *Public Service Employment Act*. The Act requires that the Head of the Public Service submit an annual report on the state of the Public Service of Canada to the Prime Minister. The report must be tabled in Parliament.

On June 25, 1993, the Privy Council Office was given responsibility for federal-provincial relations, with the integration of the Federal-Provincial Relations Office into the Privy Council Office.

Key Responsibility of the Clerk of the Privy Council and Secretary to the Cabinet

The key responsibility of the Clerk of the Privy Council and Secretary to the Cabinet is to provide direct support to the Prime Minister from the perspective of the values, traditions and expertise of the public service. This position encompasses three interrelated roles:

- the Prime Minister's Deputy Minister;
- the Secretary to the Cabinet; and
- the Head of the Public Service of Canada.

As the Prime Minister's Deputy Minister, the incumbent provides advice and support to him in areas that are of special concern to his role as head of government. The Prime Minister looks to the Clerk of the Privy Council for advice in appointing senior office holders and organizing the government, in operating the Cabinet decision-making system, in setting overall policy directions, in enhancing intergovernmental relations, and in managing specific issues.

As Secretary to the Cabinet, he or she assists the Prime Minister in maintaining the cohesion of the Ministry and giving direction to it. In this role, the Clerk of the Privy Council and Secretary to the Cabinet provides support and advice to the Ministry as a whole to ensure that the Cabinet decision-making system operates according to the design of the Prime Minister.

As Head of the Public Service, he or she serves as the principal link between the Prime Minister and the Public Service of Canada, and is responsible to the Prime Minister for the institution's overall performance and its effective management.

The following provides a discussion of specific functions of the Prime Minister, and by implication, the responsibility of the Clerk of the Privy Council and Secretary to the Cabinet in advising and supporting the Prime Minister in carrying out these functions.

Appointments, Mandates and Government Organization

The Prime Minister decides who will occupy the positions essential to making government work. Ministers, Secretaries of State, Parliamentary Secretaries, Deputy Ministers, and others occupying the principal offices in government are appointed on the recommendation of the Prime Minister. This power to recommend appointments underlies the key function of the Prime Minister in assigning responsibilities to Ministers and to the departments and agencies for which they are responsible or for which they answer in Parliament. The Prime Minister establishes the mandates and jurisdictions of the holders of senior positions, sets standards of conduct and remuneration, and designs and adjusts the machinery of government to ensure that the government functions effectively and efficiently.

The PCO supports the Prime Minister's power to recommend appointments by providing substantive policy and management advice on certain senior appointments, including the appointment of deputy ministers and heads of agencies. As the senior deputy minister of the public service, the Clerk of the Privy Council and Secretary to the Cabinet monitors the effectiveness of the support provided to Ministers by their departments, and makes recommendations to the Prime Minister when departmental or agency capabilities require reinforcement.

The PCO also provides advice to the Prime Minister on the relations of the Government with Parliament and the Crown, on the roles and responsibilities of Ministers, and on the organization of government. When jurisdictional and other problems arise, the PCO develops proposals to resolve such problems according to the direction of the Prime Minister and in a manner consistent with the principles of parliamentary government and the Canadian Constitution.

In this regard, an additional responsibility of the PCO is to ensure continuity when Governments change. This extends to giving advice to a departing Prime Minister, advising an incoming Prime Minister on establishing his or her administration, briefing new Ministers and providing other support in periods of transition.

Support to the Cabinet and Cabinet Committees

The Prime Minister is responsible for arranging and managing the Cabinet decision-making process. The Cabinet is fundamentally a political forum in which Ministers discuss and make decisions on general policy and on individual policies which affect the whole Ministry.⁶ All Ministers are responsible for maintaining the cohesion of the Ministry and for contributing to the elaboration and implementation of the Government's policy agenda. Under the leadership of the Prime Minister, Ministers deal in Cabinet with issues of fundamental importance to the Government and build a consensus that each will be prepared to defend in public.

In responding to the challenges of governing in a modern society, Prime Ministers have utilized committees of Ministers to maintain the effectiveness of the Cabinet as a decision-making forum. These committees operate as an extension of the Cabinet to examine specific issues in detail and to make recommendations for final decision by the Cabinet as a whole. The Prime Minister decides the composition, organization, and methods of operation of the Cabinet and the committees of Cabinet.

The responsibilities of the Prime Minister for the operations of the Cabinet are directly supported by the PCO. As the Cabinet secretariat, the PCO provides the Cabinet and its committees with support required to prepare for and conduct meetings. The PCO arranges meetings, proposes and circulates agendas, distributes documents, provides advice to the chairperson on agenda items, and records Cabinet minutes and decisions. It works with departments in preparing ministerial proposals for the Cabinet and transmits Cabinet decisions to departments. The PCO also ensures that Orders in Council and other statutory instruments are prepared and promulgated in order to give effect to Government decisions requiring the approval of the Governor General.⁷

In view of the premium on the time of Ministers, an important priority of the PCO is to ensure the efficient organization of Cabinet operations. Changes in committee structure, use of ad hoc committees to focus on special policy areas and problems, and streamlining documentation and other briefing materials for use by the Cabinet are among the measures adopted by Prime Ministers to promote flexibility and to utilize the time of Ministers more effectively. The PCO manages the flow of business to ensure that the decision-making process functions smoothly according to the standards, design and instructions of the Prime Minister.

Government Policy Directions

The Prime Minister is the authoritative spokesperson on what is and is not the policy of the Government. Responsible to Parliament for the overall spending program of the Government — which ultimately reflects how the priorities, policies and programs of the Ministry are defined and implemented — the Prime Minister leads the process of setting the general directions of government policy.

The elaboration of government policy is a complex and continuing process. Ministers identify and propose priorities and initiatives on the basis of their portfolio and other responsibilities. Certain individual Ministers exercise special coordinating functions on behalf of the Ministry as a whole.⁸ Under the direction of the Prime Minister, policy proposals are evaluated and combined to form an overall agenda which has the support of the entire Ministry.

One of the key roles of the Clerk of the Privy Council and Secretary to the Cabinet, therefore, is to support the Prime Minister in providing leadership and direction to the Government. The Clerk of the Privy Council and Secretary to the Cabinet provides advice to the Prime Minister on the overall conduct of government business, including the strategic handling of major issues and subjects that are of particular interest to the Prime Minister. The objective is to ensure that all the affected interests have been consulted, and that a full range of alternatives has been considered prior to decisions — in sum, that the Prime Minister and the Cabinet possess the information required to make decisions.

In this context, a major focus of the function of the Clerk of the Privy Council and Secretary to the Cabinet is the coordination of policy to ensure complementarity between new proposals, existing policies and the Government's overall objectives. The PCO works closely with the PMO, the Department of Finance, the Treasury Board Secretariat and other agencies and departments to provide Ministers with comprehensive briefings on the issues before them for decisions and, after decisions are made, to disseminate the information and arrange for the follow-up measures required for effective implementation. The participation of the PCO in policy elaboration and implementation is an integral part of its central role in supporting the Prime Minister to ensure the effective operation of the Government.

The Clerk and Constitutional Government

Canada is a constitutional monarchy, whose Sovereign is represented by the Governor General. The latter is a symbol of the continuity of government whose key function is to ensure that a Prime Minister and a duly constituted government are always in place. Once the Prime Minister and Cabinet have taken office, the Governor General almost always acts on the advice of Ministers of whom the Prime Minister is pre-eminent.

The Clerk of the Privy Council and Secretary to the Cabinet has the personal responsibility to advise the Prime Minister in the exercise of his constitutional responsibilities, including those relating to the Governor General. These considerations provide the context for the role of the Clerk of the Privy Council and Secretary to the Cabinet with respect to the office of the Governor General. On issues related to the office, Privy Council Office officials work in close cooperation with Government House. In addition to the Governor General's own staff, the Privy Council Office constitutes a source of information and advice on the constitutional powers and role of the Governor General.

The Clerk of the Privy Council and Secretary to the Cabinet also has the particular responsibility of ensuring the continuity of government between successive administrations, and of enabling the government of the day to understand and recognize the established conventions relating to the Crown.

As part of the role in ensuring continuity of government at all times, the Clerk of the Privy Council and Secretary to the Cabinet serves as the custodian of the system of access to Cabinet papers, and is responsible for upholding the convention that a new Ministry may not have access to the Cabinet papers of preceding governments.

In addition to responsibilities for the overall direction of government policy, the Prime Minister has a particular role in areas of fundamental importance to the national interest. The Minister of Foreign Affairs is responsible for foreign policy; nevertheless, as head of government, the Prime Minister maintains a particular interest in foreign affairs and foreign policy. This is also true of issues touching on national security, where the Prime Minister carries a special responsibility for the security of the country and for ensuring respect for democratic expression of views.

The PCO provides advice and support in these areas of policy of particular concern to the Prime Minister where he requires his own direct public service support. In foreign policy, the active roles of both the Prime Minister and the Minister of Foreign Affairs necessitate coordination and close interaction between the officials supporting the two Ministers. Similarly, PCO officers, working in close co-operation with the departments of Foreign Affairs and International Trade, National Defence and the Solicitor General, provide advice to the Prime Minister on matters of national security.

Intergovernmental Affairs

The Prime Minister's responsibility as head of government also extends to intergovernmental relations within Canada. Ministers are directly involved in intergovernmental relations through their portfolio responsibilities and in their capacities as representatives of the regions of the country. The Prime Minister, with the support of the Minister of Intergovernmental Affairs, is responsible for the overall management and coherence of relations with provincial and territorial governments, and for promoting and strengthening Canadian unity. In carrying out these responsibilities, the Prime Minister and the Minister of Intergovernmental Affairs are supported by officials of PCO, under the direction of the Clerk of the Privy Council and Secretary to the Cabinet and the Deputy Minister (Intergovernmental Affairs). PCO officials also provide advice and support on constitutional matters and Aboriginal policy, and provide support to the Minister designated as Federal Interlocutor for Métis and Non-Status Indians.

Support to the Head of the Public Service

Because of the Clerk of the Privy Council and Secretary to the Cabinet's primary role as chief non-political adviser to the Prime Minister and the responsibility for the overall effectiveness of the Public Service's support to the Ministry, he or she has traditionally

been regarded as the Head of the Public Service. As the senior deputy minister, the Clerk of the Privy Council and Secretary to the Cabinet has the combined responsibility both for the overall effectiveness of the Public Service and for its competent and efficient management and administration. Recognizing the fundamental importance of leadership and accountability in the Public Service, the statutory acknowledgement of the Clerk of the Privy Council and Secretary to the Cabinet as Head of the Public Service was included in the *Public Service Employment Act* in 1993.

In practical terms, the role of the Clerk of the Privy Council and Secretary to the Cabinet as Head of the Public Service involves:

- advancing the Government's public service management agenda, with particular emphasis on public service reform;
- ensuring strategic management and planning of senior public service personnel;
- serving as spokesperson for the Public Service; and
- submitting an annual report to the Prime Minister on the state of the Public Service.

In terms of specific activities, the Clerk of the Privy Council and Secretary to the Cabinet convenes Deputy Ministers' Meetings - Breakfasts (weekly), Lunches (monthly) and Retreats (semi-annually), chairs various committees of deputy ministers, e.g. Committee of Senior Officials, Coordinating Committees of Deputy Ministers, and is, by statute, the Chair of the Board of Governors of the Canadian Centre for Management Development. PCO staff provides the necessary advice and support to the Clerk of the Privy Council and Secretary to the Cabinet in discharging these responsibilities.

PCO Structure and Operations

The structure and operations of the Privy Council Office flow directly from the central role of the Office in organizing and coordinating support for the Prime Minister and the Cabinet. The basic building blocks of the PCO are secretariats, each under the direction of an Assistant Secretary to the Cabinet, with the exception of Intergovernmental Affairs, which is headed by a Deputy Minister. Some secretariats support the Cabinet and committees of Cabinet and keep track of developments within specific policy sectors. Other secretariats provide advice on appointments, mandates and government organization, legislation and counsel issues, security and intelligence, communications issues and other direct concerns of the Prime Minister. Through the work of these secretariats, the PCO as a whole maintains an overview of the entire range of government activities.

The Privy Council Office is staffed by career public servants. As a rule, officers are recruited from line departments and serve in the PCO for a limited period, following which they leave for positions in other departments. This rotational policy is intended to contribute to personnel development in the public service: officers bring their expertise from earlier responsibilities to their jobs in the PCO; subsequently, they utilize their

experience at the centre of government to enhance their effectiveness in positions in other federal departments and agencies.

By design, the PCO is a small organization. Its size reflects constant attention to the balance between providing effective support to the Prime Minister and the Cabinet and avoiding duplication of the expertise and activities of the line organizations which support Ministers in carrying out their portfolio responsibilities. The PCO ensures the coordinated action among the full range of government organizations that is essential to the successful design and implementation of government policy.

The functions of the PCO are such that organizational structures and procedures are inevitably fluid. The nature of the support required by the Prime Minister and the Ministry changes in response to new Cabinet decision-making structures or new demands on the Prime Minister and the Cabinet. Such changes, in turn, are reflected in the structure of the PCO and in its relationships with other departments and agencies.

IV Conclusion

As head of government, the Prime Minister provides leadership and cohesion to the Ministry. To carry out these fundamental responsibilities, the Prime Minister requires a broad base of support. In choosing the principal ministerial and official office-holders, in establishing and balancing ministerial mandates, in providing the machinery that the Cabinet requires to serve the process of collective decision-making, in providing management for the public service, in managing intergovernmental affairs, and in giving general direction to government policy, the Prime Minister is supported by the Privy Council Office, under the leadership of the Clerk of the Privy Council and Secretary to the Cabinet.

To fulfil its responsibilities for ensuring the smooth functioning of the decision-making process and the overall machinery of government, the PCO provides secretariat support to the Cabinet, monitors developments across the government as a whole, provides advice to the Prime Minister and to his colleagues in Cabinet, and acts as a broker to resolve problems within government. The effective exercise of these responsibilities requires close and continuous contact with other federal departments and agencies to support their ability to carry out their responsibilities effectively and to ensure overall consultation and coordination.

The challenges facing the Prime Minister in providing the foundation for stable and effective government have multiplied enormously in recent years. Such challenges will continue to require flexibility and adaptability to maintain effective support to the Prime Minister and the Cabinet in ensuring the continuity, coherence and effectiveness of overall government operations in a rapidly changing environment.

-
1. Constitutionally, the Queen's Privy Council for Canada is the advisory body to the Sovereign, and Privy Councillors remain members of the Privy Council for life. In practice, however, the full Privy Council only meets on rare occasions. Only those Privy Councillors currently holding ministerial office operating as the Committee of Council, i.e., the Cabinet act as advisers to the Governor General in the constitutional meaning of the term.
 2. An extended discussion of the foundation of responsible government in Canada is provided in a companion publication, *Responsibility in the Constitution* (Ottawa: Privy Council Office, 1993).
 3. A Minute of Council first issued in 1896 and last re-issued in 1935 enumerates some of the Prime Minister's prerogatives, including calling meetings of the Cabinet, recommending the convocation and summoning of Parliament, recommending the appointments of privy councillors, lieutenant governors, chief justices, senators, and other senior office-holders, and making recommendations in any department. This minute recognizes the Prime Minister's prerogatives, but does not confer them.
 4. The Prime Minister has overall responsibility for the portfolio of the Privy Council. This includes the Prime Minister's Office, the Privy Council Office, and offices of the Deputy Prime Minister, the President of the Privy Council and Minister of Intergovernmental Affairs, the Leader of the Government in the House of Commons, and the Leader of the Government in the Senate. Other quite separate organizations such as Commissions of Inquiry also appear within the "Privy Council" program in the Estimates because the responsible Minister is the Prime Minister or a Minister in the portfolio. The Prime Minister and other Ministers in the portfolio are also the Ministers responsible for several other organizations (e.g. the Canadian Centre for Management Development, the Public Service Staff Relations Board).
 5. R.G. Robertson, "The Changing Role of the Privy Council Office," a paper presented to the 23rd Annual Meeting of the Institute of Public Administration of Canada on September 8, 1971 and published in *Canadian Public Administration*, XIV, 4, 1971, p. 506.
 6. Although the usual Canadian practice has been to include all Ministers in the Cabinet, this is not constitutionally necessary. It is not the case in the United Kingdom or Australia, and there have been (rare) exceptions in Canada in the past. The positions of Secretaries of State were created by Prime Minister Chrétien in 1993 to assist Ministers. Although part of the Ministry, Secretaries of State are not Cabinet Ministers, and do not regularly attend Cabinet meetings.
 7. The Governor in Council (GiC) is the Governor General acting on the advice of the Committee of Council. Orders and Minutes of Council are signed by the Governor General and thus give legal force to Cabinet decisions taken pursuant to a statutory authority or (less frequently) the royal prerogative.
 8. For example, the Minister of Finance in economic and fiscal policy; the President of the Treasury Board in expenditure and public service management; the Minister of Foreign Affairs in foreign policy; and the Minister of Justice in

constitutional and legal matters. Such Ministers and their departments play an important role in supporting the Prime Minister in forging consensus among Ministers.

Date Modified: 2000-02-01