

# **Guidelines for Preparing Government Responses to Parliamentary Committee Reports**

## **Introduction**

Government responses to parliamentary committee reports are a key way for the Government to be held accountable to Parliament. Such responses allow the Government to address issues raised by parliamentary committees and to outline its position on policy and program issues. Government responses therefore serve an important function in our parliamentary system, and require attention by Ministers and departmental officials.

This document reviews the procedures for departmental officials in preparing a comprehensive Government response to a committee report, and outlines the key milestones leading to the tabling of the Government response in Parliament.

## **Responses to House of Commons Committee Reports**

Following recommendations made by the Lefebvre Special Committee in 1982, the Standing Orders of the House of Commons were amended to permit standing and special committees to request that the Government table a comprehensive response to their reports. House of Commons rules had provided the government with 150 days to respond to Committee requests. An amendment to House of Commons Standing Order 109, effective March 7, 2005, and remaining in effect for the duration of the current 38<sup>th</sup> Parliament and the first 60 sitting days of the next Parliament, reads:

"Within 120 days of the presentation of a report from a standing or special committee, the government shall, upon the request of the committee, table a comprehensive response thereto, and when such a response has been requested, no motion for the concurrence in the report may be proposed until the comprehensive response has been tabled or the expiration of the said period of 120 days."

## **Responses to Senate Committee Reports**

On June 3, 2003, the Senate adopted the Seventh Report of the Standing Committee on Rules, Procedures and the Rights of Parliament concerning Government responses to Senate committee reports within 150 calendar days. The following has been added to rule 131 of the Rules of the Senate:

"(2) The Senate may request that the Government provide a complete and detailed response to a report of a select committee, which has been adopted by the Senate if either the report or the motion adopting the report contains such a request, or if a motion to that effect is adopted subsequent to the adoption of a report.

(3) Upon adoption of a report or motion pursuant to subsection (2), the Clerk shall immediately communicate the request, and send a copy of the report, to the Government Leader [i.e., the Leader of the Government in the Senate] and to each Minister of the Crown expressly identified in the report or in the motion as a Minister responsible for responding to the report, and the Government Leader shall, within one hundred and fifty calendar days after the adoption of the report or motion, either table the Government's response or give an explanation for not doing so in the Senate.

(4)Where the Senate adopts a report or a motion pursuant to subsection (2), the report of the select committee and the response of the Government or the explanation of the Government Leader for the absence of a response, or the absence of such response or explanation, are deemed to be referred to the select committee one hundred and fifty calendar days after the adoption of the report."

This Senate rule change provides a formal basis for the Senate to request Government responses to Senate committee reports.

## Definition of Comprehensive Government Response

The Standing Orders of the House of Commons require that the Government table a comprehensive response, although the precise nature of the response is not specified. The Speaker of the House has consistently declined to rule on the issue of the comprehensiveness of responses and has ruled that "the nature of the response must be left to the discretion of the Government." That said, it is clearly in the interest of the Government, Parliament and the public for responses to address fully the issues raised in committee reports.

The requirements in the Senate are similar, in that the Government should provide a comprehensive response to a committee report, although, as in the House of Commons, the nature of such a response is left to the discretion of the Government.

There are several approaches for responding to a standing committee report, although the first, straight-forward approach is most frequently followed.

1. The Government may **respond substantively to each recommendation** of a parliamentary committee report, or to groups of related committee recommendations.
2. The Government may make a **policy announcement** on the same subject as a parliamentary committee report. This could include legislative or program initiatives. The letter to the committee chair could indicate that this announcement, without responding to individual committee recommendations, constitutes a "global" response to the committee's report. The letter may also note the main points of the committee report and the general way the policy announcement addresses these points.
3. Where a parliamentary committee is expected to make further recommendations on the same topic in the near future, the Government may table an **interim response** which responds to the issues raised by the Committee.

## Departmental Responsibility for Preparation of Response

Departmental officials are responsible for working with Ministers and Ministers' offices and the Privy Council Office (PCO) to respond to committee reports. This includes monitoring parliamentary committee proceedings for reports requesting a Government response that involves their department.

After a request for a Government response is tabled in the House, or the Senate adopts a report or separate motion requesting a Government response, PCO will follow up with a letter to the Deputy Minister of the relevant department (or departments). In some cases, two or more departments may be asked to prepare a joint response, although one

Minister will usually be identified to coordinate and table the Government's response. An officer in a PCO Secretariat will be designated as a point of contact for the department. The officer will work with the department to schedule the response for timely discussion by the appropriate Cabinet Committee, and may provide advice on the nature and content of the response.

The Legislation and House Planning Secretariat in PCO monitors parliamentary committee reports that request a comprehensive Government response, and is available to answer questions about the procedure for preparing and tabling a Government response. Ministers' offices may also seek advice from the Offices of the Leader of the Government in the House of Commons or the Leader of the Government in the Senate.

## Memorandum to Cabinet

Proposals for a comprehensive Government response are prepared under cover of a Memorandum to Cabinet (MC) for consideration by the appropriate Cabinet Committee. The MC should outline for Ministers the main features of the proposed response, and clearly state the degree to which the response addresses the parliamentary committee's recommendations, including a corresponding rationale.

**The proposed Government response is annexed to the MC, and as such, remains a Cabinet confidence until the response has been tabled.** A letter forwarding a copy of the response to the chair of the parliamentary committee, to be signed by the appropriate Minister(s), should also be annexed to the MC.

The MC should be ready for Cabinet Committee consideration at least 20 days before the date required for tabling, in order to permit time for approval by Cabinet, and tabling. The PCO Cabinet Papers Unit requires that MCs be forwarded to the Unit no later than 7 days prior to consideration by Cabinet (i.e., 27 days before the 120 day deadline in the House of Commons or the 150 day deadline in the Senate). Departments should take into consideration the intermittent scheduling of Cabinet Committee meetings during parliamentary adjournments, as this may require that the response be scheduled several weeks in advance of the time lines which are suggested on the following page. Further, if the proposed response is likely to be controversial, consideration should be given to scheduling the item for earlier discussion. The proposed Government response, as ratified by Cabinet, constitutes the document that the Minister should table in the House of Commons or that the Minister in the Senate, the Leader of the Government in the Senate, should table in the Senate.

## Planning to Meet the Deadline for a Comprehensive Response

In the House of Commons, the start of the 120 calendar day period for preparing the response begins the day after the committee report is tabled in the House. The chair of the committee may mention the request in the House when the committee's report is tabled. As well as being recorded in the *Journals* of the House of Commons for that day, the committee's report is available on the parliamentary internet site, under Committee Business. The deadline for tabling a response to a report of a House of Commons committee is not affected by adjournment or prorogation of Parliament. However, dissolution of Parliament immediately puts an end to the requirement to respond to committee reports.

The consequences for the Government of missing the deadline are serious (i.e., this constitutes contempt for the orders of a House of Parliament). In a ruling dated April 19, 1993, the Speaker of the House of Commons found a *prima facie* breach of privilege because an Order in Council and a Government response were not tabled in the House when they should have been.

In the Senate, the 150 calendar days begins the day the Senate adopts the report or the motion requesting a Government response, rather than the day the report is tabled in the Senate. While the deadline for tabling the response is not affected by adjournment, a prorogation or a dissolution of Parliament immediately puts an end to the request to respond to Senate committee reports. However, following a prorogation, the Senate can reinstate its request for a Government response.

Every attempt should be made to table the response in the Senate by the 150 day deadline. The consequences for the Government for missing the deadline are outlined in rule 131 of the *Rules of the Senate*. Rule 131 states that the Leader of the Government in the Senate "shall, within 150 calendar days after the adoption of the report or motion either table the Government's response or give an explanation for not doing so in the Senate." This explanation is then referred to the committee that authored the report. In such cases, departments will prepare the necessary explanation and provide support as required for the Leader of the Government in the Senate. Should the Leader of the Government in the Senate fail to provide an explanation, the entire matter is, according to rule 131, deemed to have been referred to the respective committee. One possible outcome of this automatic referral would be a recommendation to the Senate to find the Minister in question in contempt.

The key milestones for preparing a Government response, and suggested time- lines are as follows.

<b>Milestone</b>	<b>Timing (calendar days after tabling of committee report) House of Commons</b>	<b>Timing (calendar days after tabling of committee report) Senate</b>
Developmental Stage and Departmental and Ministerial Approval of MC and Response *	1 - 90 days	1 - 110 days
Final Signed MC to PCO *	7 days before Cabinet Committee Consideration	7 days before Cabinet Committee Consideration
Cabinet Committee Consideration	no later than 100 days	no later than 130 days
Cabinet Consideration	100-120 days	130-150 days
Government Response Tabled	no later than 120 days	no later than 150 days

\* PCO should be involved in the developmental stage and throughout the MC process

## **Procedure for Tabling a Comprehensive Government Response in the House of Commons**

Once the Government's comprehensive response is approved by Cabinet, the response is tabled in the House of Commons. **When the House is sitting, there are two possible procedures for tabling:**

1. The response can be **directly tabled in the House**. Two copies of the response, in each official language, are tabled by the appropriate Minister, or Parliamentary Secretary, during Routine Proceedings in the House of Commons, pursuant to Standing Order 32(2).
2. An alternate way is to **deposit the response directly with the Clerk of the House**, under cover of a letter signed by the Minister, pursuant to Standing Order 32(1) without tabling documents during Routine Proceedings. This process sometimes is referred to as "back door" tabling. In general, back door tabling is preferred, because this does not require an intervention in the House.

**If the House is not sitting on the due date**, the procedure for tabling is as follows:

Two copies of the Government's comprehensive response in both official languages may be **deposited directly with the Clerk of the House of Commons on the Wednesday following the fifteenth day of the month**. Every attempt must be made to deposit the response by the 120 day deadline, as the House may be recalled at any time, and if the response is with the Clerk, the document will be deemed to have been tabled "back door" on the day the House resumes sitting. Where the House stands adjourned and the document is deposited on the Wednesday following the fifteenth day of the month, it will be recorded in the *Journals* of the House of Commons on the day after the specified Wednesday.

When Parliament is not in session, out of respect for the House, the Minister should keep the response confidential until it is received in the Clerk's office. Once deposited with the Clerk, the response may be made public, but copies should be provided under cover of a letter from the Minister to the opposition critics informing them the response has been deposited but not yet recorded in the *Journals* of the House of Commons, and that it is being made public immediately.

**If Parliament is prorogued on the due date**, the response must be tabled the first day of the new session of Parliament.

## **Procedure for Tabling a Comprehensive Government Response in the Senate**

Once the Government's comprehensive response is approved by Cabinet, the response is tabled in the Senate. **When the Senate is sitting there are two possible procedures for tabling:**

1. The response can be **directly tabled in the Senate**. Two copies of the response, in each official language, are tabled by the Leader or the Deputy Leader of the Government in the Senate during the daily Routine of Business under the Tabling of Documents.
2. An alternate way is to **deposit the response directly with the Clerk of the Senate**, under cover of a letter signed by the Leader of the Government in the Senate, pursuant to rule 28(1) without tabling documents during Routine

Proceedings. In general, back door tabling is preferred, because this does not require an intervention in the House.

**If the Senate is not sitting on the due date**, the procedure for tabling is as follows:

Two copies of the Government's comprehensive response in both official languages may be **deposited directly with the Clerk of the Senate on the due date**.

When Parliament is not sitting, out of respect for the Senate, the Minister should keep the response confidential until it is received in the Clerk's office. Once deposited with the Clerk, the response may be made public, but copies should be provided under cover of a letter from the Minister to the opposition critics informing them the response has been deposited but not yet recorded in the *Journals* of the Senate, and that it is being made public immediately.

## Distributing the Response

Notwithstanding the method chosen for tabling the Government's response:

the **response is a Cabinet confidence until it is tabled** or deposited with the Clerk, as noted above;

out of respect for Parliament, the **report should not be made public before it is tabled**;

**the Minister should send the original letter with the response to the chair of the parliamentary committee early in the morning of the same day that the response is to be tabled**. Additional copies should be provided for distribution to committee members (the clerk of the committee can assist with this);

once the Government's response is tabled, **officials should ensure equal and timely access to the response for all Members of Parliament**, including MPs, Senators, and parliamentary staff. Approximately 500 copies of the Government's response are required. The Supervisor of Postal and Distribution Services of Parliament will assist departments in co-ordinating general distribution through Parliament's distribution services.

## Communications

Depending on the nature of the Government response, communications activities may be considered following tabling in the Senate or the House of Commons. For example, departmental communications branches have in the past prepared press releases, organized media events for the Minister and/or the Parliamentary Secretary, and briefed Government and opposition caucuses. Again, **officials should ensure that all Members have equal and timely access to these materials and events**.

## Conclusion

In the Canadian system of parliamentary government, Ministers are accountable to Parliament -- collectively and individually -- for the policies, programs and activities of

the Government. Public servants are responsible for supporting Ministers in the exercise of their Parliamentary duties. The preparation of these responses therefore should be accorded the necessary priority in order to ensure that in all cases the Government tables a comprehensive response that meets the requirements of rule 131 of the Rules of the Senate and Standing Order 109 of the House of Commons.

For further information you are invited to contact the Legislation and House Planning Secretariat of the Privy Council Office at 947-3630.