Players, Processes, Institutions: Central Agencies in Decision-Making

Claire E. Marshall & David Cashaback

January 2001

PREFACE

About this document

Government Decision-Making in Canada is a summary of sessions held during a ten-day study tour of central agencies by representatives of the Secretariat of the Cabinet of Ministers of Ukraine in January 2001. In Ottawa, delegates met with representatives from the Privy Council Office, Treasury Board Secretariat , Department of Justice as well as the Canadian Centre for Management Development. They also attended meetings with academics and representatives from the private sector. In Toronto, delegates met with officials from the Ontario Ministry of Municipal Affairs and Housing and the City of Toronto.

Although the program was designed to acquaint colleagues from Ukraine with the inner workings of the Canadian system of government, we believe it is a very useful resource for those interested in how government works. It is a concise window on the institutions, processes and players involved in decision-making in Canada.

Acknowledgements

The program was organised by the Canadian Bureau for International Education (CBIE) and funded by the Canadian International Development Agency (CIDA) as part of the Policy Advice for Reform (Ukraine) program. The United Nations Development Program (UNDP) contributed one of their advisors from Kyiv. The program was designed and implemented by the Institute On Governance (IOG), under contract to CBIE. The Canadian Centre for Management Development (CCMD) facilitated meetings with some agencies.

For more information, contact the Institute On Governance, at (1-613) 562-0090, or by email at info@iog.ca.

TABLE OF CONTENTS

INTRODUCTION

A previous study tour to Canada by the Government's Working Group on Central Government Reform in June 1999[*] assisted the Government of Ukraine in developing a program of reform by providing examples from Canadian experience. Although the Working Group looked at the principles behind reform, the recent study tour was interested in how to carry out reform. Sessions were designed to expose delegates to key aspects of the machinery of the Canadian decision-making process, with an eye to improving the coordination and implementation of government priorities and policies. This included the quality and handling of Cabinet documents, translation of policy into legislation and other procedures to enhance policy-making in Ukraine.

The study tour was designed to provide answers to the following questions:

- What are the systems, skills and capacities that make the Canadian system of decision-making function?
- What formal or informal traditions, expectations and linkages support decision-making?
- What are the roles, responsibilities and interrelationships between key players such as the Government of the day, Cabinet, the Privy Council Office (PCO), the Prime Minister's Office (PMO), other central agencies, Parliament and line departments?
- What is the division of responsibility between the political level and the public service?
- How does the legislative process operate and who is responsible for drafting laws and coordinating the government's legislative programme?
- Which elements of Canadian practice might translate to the Ukrainian context?

This report constitutes a summary of the sessions, interweaving the issues and questions raised by delegates. In sum, the report is intended to refresh the memories of participants on what they witnessed in Canada and provide sources of more detailed information that may assist them in their ongoing work of implementing change to the machinery of government in Ukraine. Participants received a considerable amount of supporting material. Readers will find a list of relevant materials at the end of each section.

---

[*] Also involving CBIE, CIDA and IOG.

OVERVIEW OF THE CANADIAN GOVERNMENT

1. Notes on the Canadian Context

When examining a country's approach to public administration it is useful to understand some of the key characteristics of the system and society that underlie its structures and processes and facilitate their operation.

The Canadian public service is characterised by several key features that determine the manner in which the system is run and how public programs are carried out. Some of the fundamental values include:

- **neutrality** requires that politics remain separate from public administration;

- **accountability** of public servants for fulfilling responsibilities that flow from the authority given them;

- **responsiveness** to the needs and demands of both the general public and the government in power;

- **integrity**, which preserves public trust and confidence in government through ethical conduct.

Public servants in Canada are well trained and well paid and are therefore expected by their colleagues, supervisors and by citizens to perform their duties in good faith. Considerable authority and independence is granted to officials and public employees. Consequently, they are expected and trusted to accept the responsibilities conferred upon them and to carry them out in an ethical manner. The values and rules by which public servants are expected to work are well understood and there is a general understanding that failure to meet these requirements results in dismissal. The system works well in the main—lapses are few.

There has been a shift in recent years toward results-based management in the public sector in Canada. This involves a focus on desired outcomes rather than simply on inputs and outputs. This shift has led to a general reduction of rules thus freeing departments to choose the most appropriate and cost-effective means available under each unique set of circumstances to achieve the desired results. It is often reflected in rules that establish the performance standard to be achieved, rather than dictating precisely *how* this might be done.

Within the public service there is a wide range of checks and balances in place to monitor performance. Departments are audited by central agencies for effectiveness, efficiency and economy in the delivery of public programs and services. Reporting requirements, program evaluations, accountability frameworks and comprehensive planning and budgeting systems are all in place to ensure that Canadians are served in the best manner possible.

Beyond the bureaucracy there exists an additional set of checks and balances in the form of the general public, the private sector and the media. These stakeholders expect the public service to be responsive to their needs and desires and to act in their best interest. Media and consumer groups are frequently very outspoken and persistent in drawing problems to the attention of officials and politicians. Through

public consultations (a general requirement in the development of public policy in Canada) industry associations, consumer groups and special interest organisations play an active role in developing much of the policy that affects them. As a result, they know what commitments have been made and are able to call the government to account.

2. Overview of the Canadian System: Players and Processes

Martin Abrams, Professor, Carleton University School of Public Administration & Associate, Institute On Governance

The Key Players

The most important person in the Canadian federal government in the Prime Minister (PM). The PM has the power to choose a Cabinet, which he or she chairs, and to make various appointments.

Importantly, it is the Prime Minister's prerogative to select Ministers. They need not be sector specialists. In fact, in Canada most politicians are lawyers. There are no fixed criteria underlying the selection process, but generally, a Prime Minister will follow certain conventions:

- All parts of the country are represented within Cabinet.
- A significant number of Ministers are fluent in French, thus reflecting Canada's bilingual status.
- Ministers are 'ideologically diverse', that is they represent different positions and interests within the governing party (for example, some may promote social spending while others advocate fiscal restraint).
- Canada's gender and age balances are represented.
- Sectoral interests are represented.

Additional universal criteria help inform a Prime Minister's decision: will a Minister do a good job for the government of the day; and will a Minister help the government get re-elected?

Cabinet Discussions and the Decision-Making Process

The Prime Minister and Ministers, collectively called the *Cabinet* or *Ministry*, are Canada's principal decision-makers. When a Minister has a policy proposal, he or she will take it to Cabinet for approval. A key characteristic of the decision-making process in Canada is that Cabinet, in making decisions, usually only provides broad guidelines of what it seeks to accomplish. Technical description and implementation are the responsibility of the bureaucracy.

Cabinet Committees help Cabinet run smoothly and effectively. It is up to the Prime Minister to determine the shape and function of Cabinet Committees. In fact, the structure of Cabinet is very much a reflection of a Prime Minister's style. Regardless of this structure, a policy proposal will generally follow the same process: it is referred to the appropriate Cabinet committee and debated. The Committee will

make a recommendation that is almost always ratified by Cabinet (it is very rare for Cabinet to reopen a committee's decision). Issues that go directly to Cabinet, without prior discussion by one of its committees, are of a very urgent nature or of an extreme political sensitivity.
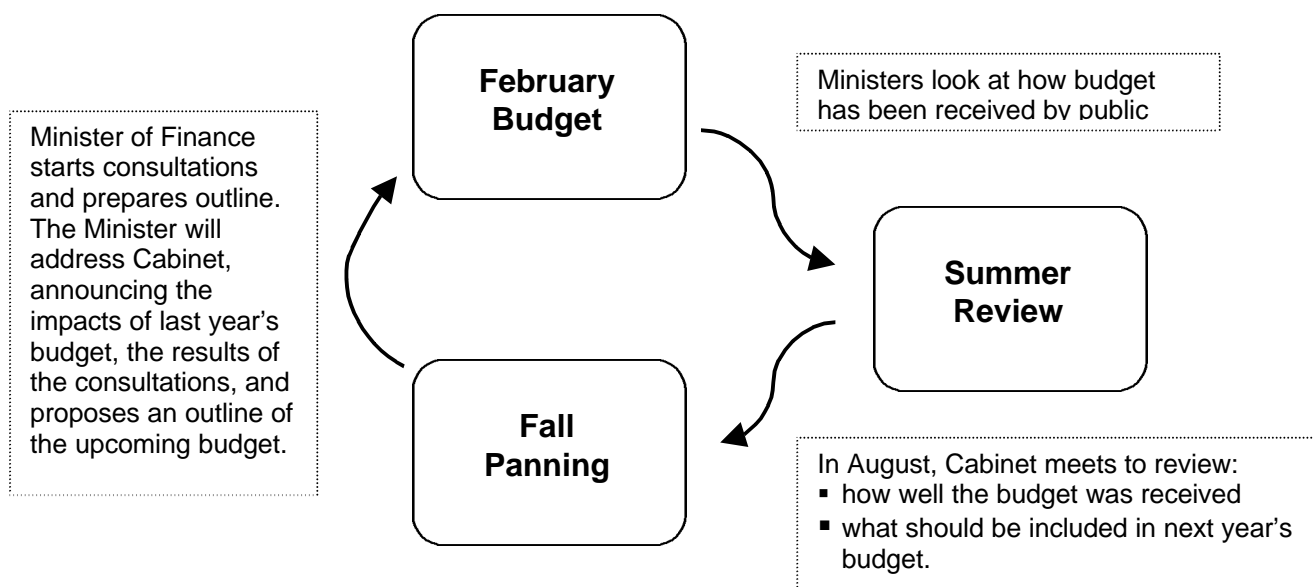
At the Cabinet stage, technical issues and details—including an appraisal on a proposal's costs—have usually been resolved. Ministers generally discuss the most sensitive political issues in confidence. For this reason, it is rare for bureaucrats or other staff to attend these deliberations. The Prime Minister makes a final decision on whether the government should proceed. Although the PM has the power to make a decision unilaterally, this is not common. Instead, he or she would summarise a proposal's advantages and disadvantages and give reasons for proceeding. In some cases, when all Ministers agree, the process is simple. In cases where there is disagreement, we see how important the Prime Minister's role is. Since ministers have to decide collectively and continue working together, the PM plays an important role in defusing potential conflicts. In summarising an issue's pros and cons, the Prime Minister makes a special effort to prevent a dissenting Minister from feeling he or she has lost. In cases where disagreement is significant, the PM can propose other avenues: postponing a decision, amending the proposal, etc.

A Prime Minister can also exert influence in other ways. Since the PM chairs the Cabinet meeting, if he or she starts by praising a proposal, it is unlikely a majority of Cabinet ministers would stand in opposition. Otherwise, the Prime Minister may choose to recognise the Minister of Finance who might address a proposal's negative financial implications. The Prime Minister, while appearing neutral, can obtain the desired outcome.

The Privy Council Office (PCO) pays an instrumental role in this process. PCO is responsible for setting Cabinet's agenda, recording the discussion and writing the decisions of Cabinet. Importantly, it provides the Prime Minister information on every piece of Cabinet business and analysis on a proposal's merits. Through constant liaison with government departments, PCO knows where all Ministers stand on an issue and relays this information to the Prime Minister. Consequently, the PM is in a very advantageous position. He or she can predict which Ministers are likely to oppose. By controlling Cabinet meetings, the Prime Minister can usually secure the support needed for a proposal while minimising the potential for conflict. Since ministers know they are being watched for a promotion to a better post, arguing against the Prime Minister often would hinder chances for future promotion. In addition, the doctrine of Cabinet solidarity dictates that Ministers can disagree with a proposal in the Cabinet room, but when it is decided and made public, a Minister must stand by the decision or resign.

Budgetary Cycle

Every year, the Minister of Finance announces the budget in Parliament. This is probably the most important document published by the government. It constitutes a general statement of the government's priorities and defines the government's planned expenditures and revenues over five years.

February Budget

Minister of Finance starts consultations and prepares outline. The Minister will address Cabinet, announcing the impacts of last year's budget, the results of the consultations, and proposes an outline of the upcoming budget.

Ministers look at how budget has been received by public

Summer Review

Fall Panning

In August, Cabinet meets to review:
- how well the budget was received
- what should be included in next year's budget.

Delegation of Authority

Generally speaking, the Prime Minister and PCO try to limit the number of issues that are discussed in Cabinet. The sheer number of matters that go to Cabinet threaten to gridlock the entire system. Many decisions are made by Ministers and by the government do not require formal Cabinet approval. If a decision pertains to a program or policy that has already been approved or is considered to be a minor variation, it does not require Cabinet approval. Thousands of these decisions are made every day.

Proposals that require new or additional funds must go to Cabinet. Another reliable rule of thumb to judge whether an issue is worthy of Cabinet scrutiny is its degree of political sensitivity. When Ministers know a proposal will likely draw significant criticism or support, Cabinet will probably discuss it.

Supporting Materials

Overview of the Canadian Government, slide presentation

3. Support to Cabinet: Cabinet Committees and Senior Executives

Larry O'Toole, Public Management Consultant, former advisor with SIGMA/OECD; former Deputy Minister; Member of the Board, Institute On Governance

Treasury Board and the Treasury Board Secretariat

Treasury Board (The Board) is a committee of Cabinet and is supported by the Treasury Board Secretariat. The Treasury Board is a committee of Ministers that makes decisions on the financial management of government. Authorisation for new expenditures of public funds belongs to Cabinet. Treasury Board also examines the issue. In fact, a policy proposal always includes a section outlining the impacts of

new spending on a department's priorities and budgets. The President of Treasury Board chairs the Committee meetings; the Minister of Finance is the vice-president of the Board but it is very rare in Canadian practice to see the Minister of Finance attend a Treasury Board meeting.

Treasury Board Secretariat is a separate entity. It is a fairly powerful central agency that makes decisions on financial issues. It is not a super ministry in the sense of policies and programs. Its power stems from the role it plays in setting priorities, making budget allocations, ensuring those allocations are not abrogated and setting personnel policies. As the government employer, it sets salary scales and terms of employment. Its main role is that of coordination. In fact, the essential function of a TBS analyst is to be knowledgeable of different departments, in order to coordinate activities within government.

Senior-level Executives and the Government of the Day

Clerk of the Privy Council

The nature of the relationship between senior-level executives and their political masters is complex. The Privy Council Office (PCO) is the Prime Minister's department, providing expertise and information and managing Cabinet and the policy process. The Prime Minister's Deputy Minister[*], known as the Clerk of the Privy Council advises the Prime Minister on every issue before Cabinet and is also the top bureaucrat in the Public Service. The Clerk, appointed by the Prime Minister, plays a pivotal role.

PCO works in tandem with the Prime Minister's Office (PMO). Whereas PCO analyses a proposal in terms of impacts on costs and in how it relates to other government initiatives (issues of a more administrative nature), the PMO, staffed by political advisors, looks at the issue from a political standpoint. Does an issue enhance the Prime Minister's standing? Will it increase popularity? This division between political and public service is replicated throughout government: each Minister has key political advisors reporting directly to their Minister in addition to senior public servants, reporting through the Deputy Minister.

Deputy Ministers and other Senior-level Executives

The division between the political level and the public service in Canada is quite clear. Deputy Ministers, although appointed by the Prime Minister, are public servants. A Deputy Minister (DM) is the key link between a department's political leadership and the bureaucracy. Although these bureaucrats take their cues on upcoming plans and priorities from 'political documents' (election platform, Ministers' speeches, policy statements), they respond and fulfill these priorities in a non-partisan manner. A former Clerk of the Privy Council, Gordon Robertson, makes the distinction between a Minister and a Deputy:

> A Minister is politically oriented but must be operationally sensitive.
> A Deputy Minister is operationally oriented but must be politically sensitive.

In most cases, a DM will be a long-serving civil servant, with 15-20 years of experience in central agencies and line departments. Whereas 20 years ago, DMs

---

[*] The Deputy Minister is equivalent to the Permanent Secretary in the UK system.

would be promoted from within a department (because they possessed a high level of subject matter expertise), nowadays emphasis is on general management skills acquired by moving around departments. Ministers do not choose their deputies. The Prime Minister appoints them.

All Deputy Ministers meet once a week with the Secretary to Cabinet (Clerk of the Privy Council). These meetings promote government-wide coordination. In addition, the Clerk uses these meetings to gather deputies' thoughts and opinions on policy issues. In this forum, they are able to express their opinions freely. As the Deputy is in constant contact with colleagues and the Clerk of the Privy Council, he or she can brief a Minister, and if need be, warn a Minister that is perceived to be falling out of step.

In terms of a DM's authority, the law in Canada gives all financial and administrative authority to the Minister. However, a Minister is expected to delegate these powers to the Deputy.[*] Typically, a Minister meets his or her Deputy on a daily basis when Parliament is in session. Members of the Minister's political staff, senior departmental officials, including the head of communications, may also attend. The meeting serves to review the day's events, discuss any news that could affect the department and to ensure that the Minister is ready and well briefed for the day's meetings (Cabinet or other).

A Deputy meets his or her Minister to give and receive policy guidance. Another kind of meeting, more restricted, can be called to discuss very sensitive issues, or to resolve a conflict between the Minister and the DM.

Assistant Deputy Ministers (ADM)

Assistant Deputy Ministers are very senior civil servants, appointed to their positions by the Public Service Commission after a competition. There are two types of ADMs: program and functional. Program ADMs were traditionally promoted from within a department because they possess valuable technical/sectoral knowledge. Functional ADMs accomplish managerial and corporate functions (policy, finance, human resource management). Increasingly, ADMs float horizontally within the government, acquiring experience in a number of departments. ADMs report directly to the Deputy Minister.

Supporting Materials

Decision-Making Within the Ministry, slide presentation

---

[*] There are exceptions to this rule, notably a Minister does not have the authority to hire civil servants. The Deputy has the power to hire public servants, but cannot sign a Memorandum to Cabinet or a Treasury Board Submission.

CORPORATE AND NON-GOVERNMENT SECTORS' ROLES IN DECISION-MAKING

Raymond Hnatyshyn, Former Governor General; Partner, *Gowling, Lafleur and Henderson*
Sean Moore, Partner, Public Policy Advisor
Rob MacDonald, Partner, Intellectual Property Division
Jacques Shore, Partner

Mr. Moore spoke on the role that the corporate sector and non-governmental organisations play in the Canadian decision-making processes.

Public Consultations

In Canada, a secretariat within the Privy Council Office coordinates the government's policies with respect to citizen engagement. Officials must indicate in a Memorandum to Cabinet whether they have consulted with stakeholders and citizens. Civil society can make overtures to government, and government may seek to solicit citizens' input. By releasing discussion papers ('White' or 'Green' papers), the government can set the parameters, lay out possible options, and invite citizens to give their opinions via a website, telephone, or face to face consultations. There is more and more understanding that the work of government needs to be open and accountable. A transparent relationship with the public is a priority.

There are other ways for citizens and groups to address government. Organisations such as Gowlings specialise in developing contacts within government to make attempts to influence government decision-making. Public policy advocacy, or lobbying, consists in monitoring policy and developments, assessing their impacts and devising a strategy to respond (a response could consist of a direct representation to public officials, communications with media, or the organisation of coalitions of interests.)

Supporting Materials

The Corporate and Non-Governmental Sectors' Role in Government Decision-Making, slide presentation

CENTRAL AGENCIES

In the Canadian system, a central agency is defined as an organisation with a substantial amount of legitimate authority to direct and intervene in the activities of departments. A central agency plays a role that stretches right across government. Central agencies play an important role in coordinating activities and guiding policy initiatives through development and implementation.

While each Prime Minister can tailor central agencies and the government as a whole to their own preferences, certain roles and characteristics remain constant. For example, central agencies tend to be significantly smaller than even the smallest operating departments and their role in horizontal policy coordination among departments means that they generally employ relatively high-level and highly experienced public servants.

The Privy Council Office, Treasury Board Secretariat and the Department of Finance are the central agencies in the current system. Although the Department of Finance was not explored in detail during the study tour, its role and significance were outlined in the *Overview*, above. Participants were also interested in the role of the Prime Minister's Office. A brief description of the Office is provided below to illustrate and contrast its role with that of PCO.

It is worth noting here that other departments, although not considered central agencies *per se*, have considerable influence over the activities of departments. The first, the Public Service Commission of Canada, is an independent agency that reports directly to Parliament and is accountable to it for the administration of the *Public Service Employment Act.* It is responsible for ensuring that appointments to and within the public service are based on merit and for the design and development of corporate learning opportunities. Apart from initial recruitment and the management of the most senior public servants (Assistant Deputy Ministers), the PSC delegates its authority to Deputy Ministers to simplify departmental transactions.

Another such department is the Department of Justice. In addition to being a department that generates its own policy and legislation, it is the government's counsel. Importantly, it oversees the drafting of all legislation and regulations. Hence, it plays a key role in all departments' legislative and regulatory activities.

PRIVY COUNCIL OFFICE

1. Machinery of Government

Nadia Kostiuk, Officer, Machinery of Government Secretariat

Cabinet

The Canadian Cabinet currently consists of 29 ministers. Canadian legislation provides for the appointment of two types of *Ministers* (portfolio ministers responsible for a department, or ministers without portfolio) and *Secretaries of State*, who support ministers. A Secretary of State is not entitled to attend Cabinet unless invited by the Prime Minister. In addition, a Secretary of State cannot sign Memoranda to Cabinet or authorise spending.

There are eleven categories or issues for which Secretaries of State are responsible (e.g. within the Foreign Affairs Department, a Secretary of State is responsible for Latin America and Africa, another for Asia-Pacific, etc.). Generally, with a large Cabinet, there are fewer Secretaries of State. Current Prime Minister Chrétien's Cabinet is relatively small, and he has supplemented it with Secretaries of State. It is the Prime Minister's prerogative to determine which issues call for a Secretary of State. The Prime Minister, in his or her Mandate letter to Ministers, directs them to provide guidance to their Secretary of State.

Cabinet Committees

Cabinet is supported by a number of committees. It is up to the Prime Minister to determine the structure and number of Cabinet Committees. Past Cabinets have been supported by as many as 12 or 15 committees. The current structure is quite small, and consists of five permanent committees: 2 policy committees (on economic issues and on social issues), the Treasury Board (the only legally constituted committee); the Special Committee of Council (that reviews appointments and regulations) and the newly established ad hoc Committee on government communications committee. Ad hoc committees are sometimes established to deal with specific issues or problems. Formally, Cabinet committees are not decision-making bodies but make recommendations to Cabinet. Cabinet usually accepts a committee's recommendations without reopening a debate.

PCO and PMO

Although PCO supports the Prime Minister from a bureaucratic perspective, a separate organisation, the Prime Minister's Office (PMO), provides political advice and support.

PCO supports the Prime Minister as the head of government in terms of priority setting. Policy priorities might emanate from a party's election platform or from caucus or Cabinet retreats. Formally, PCO sends out a 'call letter' twice a year to obtain a list of priorities and plans from departments. PCO advisors will meet with the Prime Minister to advise him on these policy issues and priorities. They will assist in

drafting the Speech from the Throne, which is one of the major drivers of policy and priorities in Canada.

PCO assists the government is setting good policy. The Prime Minister's Office ensures that these policy priorities constitute good politics. PMO staff are political. Although their salaries and benefits are paid by taxpayers, PMO staff do not have the same job security as public servants. They usually change with a change in Prime Minister and, of course, always change when a new party comes into power.

Specifically, responsibilities are divided between the PMO and PCO as follows

Privy Council Office	Prime Minister's Office
Supports the PM in the following: • priority setting • policy development and coordination • ministerial mandates and government organisation • senior appointments (ministers, senior public servants) • international affairs/national security • federal-provincial relations	Supports the PM in the areas of: • political strategy and tactics • priorities • political dimensions of policy initiatives • coordination of agenda and travel • communications • national political liaison

Within PCO, there are analysts who monitor every department, and follow up if required. They provide a corporate perspective for the Clerk of the Privy Council, who advises the Prime Minister on how well all government departments are achieving their objectives. Since the Clerk is also the head of the Public Service, he or she has a responsibility to maintain a long-term perspective. PMO has a perspective that is political and short term in nature.

The Prime Minister meets with the Clerk of the Privy Council and with his or her Chief of Staff (a political position within the PMO) every morning. The Prime Minister is thus briefed on both sides of the issues. PCO then briefs public servants while PMO briefs Ministers' offices. Each side—political and bureaucratic—receives the same messages. This separation is important: it is rare for the PMO to call a Deputy Minister's office or for the Clerk to call a Minister's office.

Instruments that are used to monitor departments include meetings, documents (every year, the department must submit a list of its plans and priorities to the Treasury Board, which is tabled in Parliament). The Clerk meets with Deputy Ministers once a week. Ongoing communication at lower levels (between policy officers), as well as at higher levels involving the deputy ministers, ensures that the government's activities are well coordinated.

2. PCO in the Policy Process

Neil Bouwer, Officer, Priorities and Planning, PCO
Daphe Meredith, Director of Operations, Social Development Policy, PCO

In the policy process, Ms. Meredith's office is an example of a secretariat that provides advice to the Cabinet Committee—in her case, on social policy. Mr. Bouwer's office is responsible for providing advice to Cabinet as a whole.

Policy Process

Policy-making is seen as a continuum. PCO is interested in maintaining and promoting the integrity of the process at four main intersections. Over the last three years, PCO has concentrated on enhancing the importance of steps I and II (see below) to develop and sustain government's capacity for research and analysis.

I. **Policy Research**: Looks at objectives, valuable experiences abroad, statistics.
Actors and sources: Statistics Canada, Non-governmental organisations, Policy Research Secretariat, departmental research staff.

II. **Policy Development**: Department discusses various options available; consults with stakeholders.
Actors and sources: Intra- and inter-departmental meetings, interest groups, other levels of government, departmental policy analysts.

III. **Decision-Making**: PCO seeks to enhance the quality of information at the disposal of decision-makers.
Actors: Cabinet, Prime Minister, Ministers, Central Agencies

IV. **Implementation**: Vigilance of the quality of service delivered to citizens, seek to make a difference in citizens' lives.
Actors: Departmental program analysts, Treasury Board, Auditor General.

Cabinet Committees are key players in the policy process. With 15 members each (all appointed by the Prime Minister, but each Committee's Chair can choose to invite other Ministers to attend if necessary), the two main Cabinet committees study issues of an economic and social nature. Each committee has a secretariat in PCO that supports it and provides advice on policy and process.

PCO emphasises the integrity of the process. Memoranda to Cabinet (MCs) that do not fulfill all requirements are held back or returned to the source department to be amended. The Canadian system functions in such a way that PCO analysts often contact counterparts in departments directly to inform them of potential problems with an MC. When a department and Minister hear from PCO that it would be "very difficult" to pass their proposal, the Minister is well advised to act on the information and amend the MC in order to facilitate its consideration and approval at a future meeting.

Memoranda to Cabinet: Process for Submission

| Almost all policy work done before an MC reaches Ministers | | | | |

Department	Committee Secretariat	Cabinet Committee	Cabinet	Treasury Board Cabinet Committee
Source of Submission	- Looks at value of content - Quality Control (ensures that all departments have been consulted) - Ensures that proposal is good for government as a whole and is good public policy - Adds value: horizontal perspective and contact with various departments - Transparency of quality control process - Cabinet Liaison groups brief Ministers on Cabinet business and inform Cabinet secretariat if Minister has business to raise at upcoming meeting	- Policy committee debates the MC - Decision taken	- Ratification of Committee's recommendation - Cabinet rarely reopens a decision of one of its committees - Approval	- Treasury Board Submission is required for an MC that requests new funds, or reallocation of existing ones. - Coordinates the purpose of a policy with the objectives agreed to by Cabinet - Deals with operational details. - Once approved, program is put into place and implemented.

3. Cabinet Papers System: Support to Cabinet and its Committees

Michelle Madore, Chief, Cabinet Papers System Unit, Privy Council Office
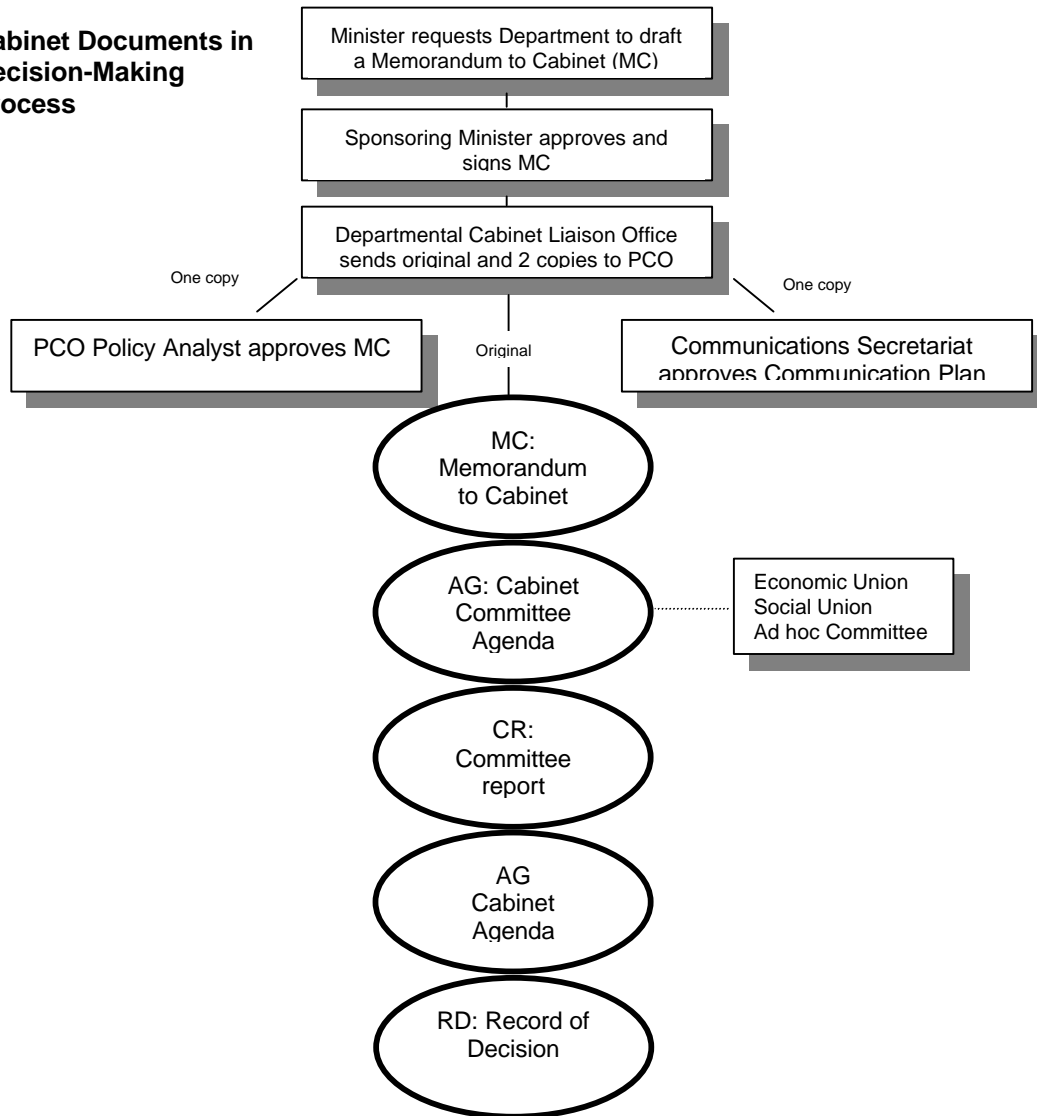
There are five types of Cabinet Papers:
- Memorandum to Cabinet
- Committee Report
- Record of Decision
- Agenda (for committee and Cabinet meetings)

- Informal Documents (aide-mémoires).

Cabinet documents are designated 'secret' and are circulated on a strictly need-to-know basis, usually to Ministers and their deputies, PCO and PMO senior officials. The sensitivity of these documents makes it necessary to control access and track their every movement. Consequently, every Cabinet document is assigned a barcode and entered into a computerised database. Since thousands of such documents are in circulation at a time, a robust system is required to manage them. In 1999, the Unit managed 129,000 documents, distributed to 95 offices (27 Ministers, 9 Secretaries of State, 24 Deputy Ministers, 27 at PCO, 3 at PMO, 5 agencies or other). Departments are audited to ensure that proper safeguards are taken to protect and keep track of the documents.

PCO seeks to ensure that time is used in the most efficient manner possible. For this reason, Cabinet documents are subject to stringent rules on style and formats. Different documents are printed on differently coloured paper. Their layouts maximise Ministers' time. The objective is to make the documents as precise as possible.

Cabinet Documents in Decision-Making Process

```
                    ┌─────────────────────────────────┐
                    │  Minister requests Department to draft │
                    │   a Memorandum to Cabinet (MC)   │
                    └─────────────────────────────────┘
                                    │
                    ┌─────────────────────────────────┐
                    │  Sponsoring Minister approves and │
                    │           signs MC               │
                    └─────────────────────────────────┘
                                    │
                    ┌─────────────────────────────────┐
                    │  Departmental Cabinet Liaison Office │
                    │  sends original and 2 copies to PCO │
                    └─────────────────────────────────┘
```

One copy   One copy

```
┌───────────────────────────────┐    ┌───────────────────────────────┐
│  PCO Policy Analyst approves MC │    │   Communications Secretariat   │
│                               │    │  approves Communication Plan   │
└───────────────────────────────┘    └───────────────────────────────┘
```

Original

MC: Memorandum to Cabinet

AG: Cabinet Committee Agenda ············ Economic Union / Social Union / Ad hoc Committee

CR: Committee report

AG Cabinet Agenda

RD: Record of Decision

Cabinet Documents in the Decision-Making Process

Once a Minister has asked the department to draft an MC and has approved and signed it, it is presented to the Cabinet Papers System Unit in PCO. The unit ensures that all key information is contained within the first twelve pages, including the ministerial recommendations and the communications plan. An analyst will review the MC with an eye to policy considerations and format. The MC is circulated at least five days before a Cabinet committee meeting.

The Committee Agenda has a standard format. The relevant PCO secretariat ensures that key Ministers will be present at the meeting. After the committee meeting, a Committee Report is prepared and is given the same number as the MC to facilitate tracking the documents. The report is not a final decision, only a recommendation to Cabinet. The report is submitted to Cabinet, and usually approved without further debate. Cabinet's decision (the Record of Decision) is numbered, printed and circulated.

Cabinet Agenda

The agenda contains only the titles of items to be discussed: the document does not give any details. The Prime Minister decides which items are discussed at Cabinet. Agenda setting begins with a briefing note from the Clerk of the Privy Council to the Prime Minister, informing him of pressing issues and whether Committees have anything to report. In addition, PCO prepares briefing notes on everything that is considered in Cabinet. There are two parts to the agenda.

1) General Discussion

This could be a discussion on a pressing issue or on future initiatives. Some 'informal documents' (aide-mémoire or other) may be distributed for consideration. Depending on the sensitivity of the issue, some documents are distributed at the meeting and do not circulate outside the Cabinet room.

In addition, the agenda sets aside time for a discussion of parliamentary affairs and other 'housekeeping' matters.

2) Annexes

The Prime Minister does not usually like to take time to review decisions taken by the Cabinet committees. In a Cabinet meeting, the Committee's recommendation will be read and approved.

Cabinet meets for approximately two hours a week, hence time is short and valuable. Usually, 2-3 items are discussed under "General Discussion", and 3-4 MCs might also be considered.

4. Government Communications

Maurice Jorre de St-Jorre, Director of Operations, Communication and Consultations, PCO
Lara Henderson, Analyst (Consultation) Strategic Communications Planning, PCO

The Government Communication section at PCO works closely with officials in the PMO. There are approximately 1,500 people involved in communications in the government, though this secretariat in PCO employs only about 30. $250 million are spent on communications each year across government. There are a number of functions that this PCO secretariat oversees in relation to the government's communication and consultation plans.

Coordination of announcements

This is the prerogative of the Prime Minister, and PCO carries it out with PMO's assistance. Ministers' offices must get approval from the Communications Office on the timing and message of any announcement (e.g. on policy, new initiatives, spending, etc.).

Government Crisis Management

The Secretariat coordinates the government's strategy and message in response to a crisis.

Media relations and Agenda management

The Secretariat determines a strategy in relation to a media story, and determines the best spokesperson for each issue (e.g. a Minister, the PM, departmental officials, etc.). It determines the timing of an intervention to maximise the chance that an issue will receive positive coverage. PCO communicates with journalists directly to share information. For a major announcement, a press conference or media briefing is organised.

Management of the ad hoc committee of Ministers on Communication

This newly created ad hoc Cabinet committee focuses on priorities and problems. Ministers do not represent their portfolios but speak for their regions. PCO officials and the Prime Minister's Director of Communications attend. The Committee discusses pressing issues, and takes Ministers' suggestions of issues that should be included in the government's communication agenda.

Coordination of the government's consultative activities

PCO plays an important role in supporting citizen engagement and participation by giving policy guidance, operational support, external liaison, etc.

Coordination and Preparation for Question Period

PCO sets how Ministers and the Prime Minister will address an issue during the daily Question Period.

Foster a communication function in government

Assists in devising training and recruitment strategies to promote an effective communications function within the government.

5. Management of Senior Personnel

Fiona Spencer, Director General, Human Resources Management, Management Priorities and Senior Personnel

Order in Council Appointments

Ms. Spencer's Secretariat supports the Clerk of the Privy Council and the Prime Minister on appointments (selection, evaluation, compensation, etc.). In Canada, the highest level of appointments are called 'Order in Council' (OIC) appointments. These appointments are made formally by the Governor General on advice of the Prime Minister. In reality, they are the prerogative of the Prime Minister, who may or may not accept the advice of Ministers. OIC appointees include Deputy Ministers, the heads of 148 agencies, commissions or boards, 25 administrative tribunals (quasi-judicial bodies) and 42 Crown Corporations. There are approximately 2,500 positions, of which 80% are part-time appointments (paid a perdiem or retainer).

Most of these appointments are political, which signifies that a change in government would lead to new appointments. This does not create instability when there is a change of government. Commonly, a new government will not dismiss appointees, but wait until their terms expire before making new appointments. Positions that are quasi-judicial—hence supposed to be at arms-length of the government—cannot be removed, except in exceptional circumstances.

Deputy Ministers

Deputy Ministers are OIC appointments without being 'political' in nature. Usually, deputies are career public servants who have come up the ranks, and who, on the basis of performance and record of achievement, are deemed qualified to manage a department. The Clerk of the Privy Council will advise the Prime Minister on possible candidates. As the DM is at the interface between political and bureaucratic streams, it is of some importance that elected officials be satisfied with the choice. In making a recommendation, a Clerk would take a candidate's skills, but also his or her linguistic ability and gender into account. Sometimes, the Clerk will advise the Prime Minister to shuffle a Deputy, in order to give him or her experience in a different setting.

There are four levels of Deputy Ministers:

- Junior-level Associate DM Level 1 (Salary: $145K-$170K): Usually supports a senior deputy in charge of a large department or agency;

- DM Level 2 ($166K-$196K): When a candidate demonstrates the requisite skills to run an entire, though perhaps, small department;

- DM Level 3 ($187K-$220K): Over time, when experience and record shows a candidate can assume responsibility for a large department;

- DM Level 4 ($210K-$246K): A senior position, usually leads a large department.

Promotions at the DM level are on an appointment to level basis. In other words, an Assistant Deputy Minister could become DM2 without having to work as a DM1, if the candidate shows high potential and skill. Some people may never be promoted beyond the DM1 level. The senior deputy monitors and evaluates the performance of a deputy at the DM1 level. Other deputies report to and are evaluated by the Clerk of the Privy Council. Each year, the Clerk asks Deputies to draft a list of personal and professional objectives. They are also asked to provide performance measures. At the end of the year, deputies provide the Clerk with a list of accomplishments and a self-evaluation of their success. A committee of senior officials, who report to the Clerk and the Prime Minister, examines the evaluations and assigns a performance rating. A positive rating can mean up to a 5% salary augmentation, or a performance bonus of up to 15% for DM1; 20% for DM2; and 25% for DM4. Generally, it takes 3-5 years to develop sufficiently to be appointed to the next level.

Assistant Deputy Minister positions are not considered OIC appointments. They are at executive-level (EX) positions, the terms of which are set by the Public Service Commission of Canada and Treasury Board. Advancement is merit-based and competitive, though 'appointment to level' is increasingly being adopted at this rank, as well.

Supporting Materials

PCO Roles & responsibilities, Slide presentation

Policy-Making and Role of PCO, Slide presentation

PCO Organisational Chart and Structure
> http://www.pco-bcp.gc.ca/Role/pco_nov2000.pdf

Government Organisational Chart

Politique Good Governance Guidelines

Treasury Board Submission Guidelines

Cabinet Decision Making in Canada, Institute On Governance
> http://www.iog.ca/publications/cabinet2.pdf

Cabinet Directive on Law-Making

Cabinet Document Control Guidelines

Cabinet Documents in the Decision-Making Process, Diagram

Cabinet Papers System Unit, description

PCO Officer's Guide to Cabinet Documents

Guidance Manual: Control and Handling of Cabinet Documents

Format Manual: Cabinet Documents

TREASURY BOARD SECRETARIAT

1. Overview of Treasury Board Secretariat and its Role

Claire Watier, Senior Analyst, International Programs Unit, TBS

Treasury Board Secretariat ("TBS"--the department) provides support to Treasury Board ("The Board"--the Cabinet Committee). TBS cooperates with other central agencies, including PCO and the Department of Finance, to establish programs. Together, they are expected to provide integrated advice to the Prime Minister and Cabinet on the functioning of government. The Treasury Board has generally assumed two functions:

- It is the federal employer.
- It is the general manager of the federal public service, responsible for the management of human, financial and information resources.

Since 1997, it has taken on a new role as management board, and has thus become responsible for the pursuit of strategic management change. In practice, this has lead to the TBS playing a role in horizontal management, establishing policies and guidelines on the administration of all government departments and agencies. To deliver on these responsibilities, TBS is organised along specific lines of operation: expenditure management planning; comptrollership; service and innovation; information management and technology, human resource management.

TBS priorities include issues such as public service renewal (review of operation and improvement; responding to human resource challenges), service innovation (focus on the citizen in service delivery); modern governance and performance (reporting, assessment); and technology (ensuring that its use is optimised). These priorities embody values on which the government bases its service to citizens. A shift to values-based public service, promoting the values of democracy, professionalism, ethics, was announced in a series of documents, such as *A Strong Foundation* and *Results for Canadians*. By shifting to value-based public service, the government is moving away from command and control and giving preference to frameworks and guidelines.

Treasury Board and Finance

The Minister of Finance develops the strategy for financing the government's operations and ensures that Canada's finances are sound. The Minister of Finance defines monetary strategies, budget issues and is the main link to the Bank of Canada, and importantly, manages the government's expenditures (including service to the national debt and transfers to provincial governments), which correspond to 38% of the total budget. The remainder of the budget is controlled by Treasury Board: it is the amount it has to work with to administer the government and its programs. TBS supports Cabinet in its decision-making to spend money. The

President of the Treasury Board is also the Chair of the Board, and any spending initiative must be approved by that Committee.

Even though the Minister of Finance and the President of Treasury Board perform different functions, they work closely. For instance, the Minister of Finance would not prepare a budget without consulting the President of Treasury Board. These two ministers possess an integrated view of government.

2. Treasury Board Secretariat's Advisory Role on Expenditure Management

John Keay, Director, Financial and Economic Analysis, TBS

A reform of the traditional line-item form of budgeting in the 1960s culminated in the creation of the TBS and a shift to program budgeting and comprehensive long-term expenditure management. With the growth in the number of government services over the last 40 years, Canada began to plan on a rolling basis (that is three years in advance). Naturally, such a system demands a high degree of integration between priority setting, operational plans and policy development. To operate successfully, Canada's system depends on the skills of its senior and mid-level managers.

By the mid-1980s, Canada had developed serious structural imbalances in its expenditures. The operation of the system tended to create new spending rather than control the costs or seek to reallocate funds from existing programs. By 1994-1996, dramatic action was needed to re-establish balance. The process that led to this readjustment was called *Program Review*. It consisted of a fundamental review of every public service carried out by the government. The results were startling: many budgets have been reduced by 30-40%.

Some departments were transformed. For instance, the responsibility for the Canadian Coast Guard was removed from the Department of Transportation and given to the Department of Fisheries and Oceans. Furthermore, the Coast Guard was given a mandate to recover its costs. Similarly, the air transportation control system was moved to the private sector, airports were transferred to local authorities, and rather than being supported by the federal government, they now rely on self-financing. Transport Canada, which used to have some 20,000 employees, now has less than 5 000.

Since Program Review, TBS has advised the Board on government spending, with an eye to ensuring that new proposals are properly costed and that they do not jeopardise existing programs. In fact, the Board manages a number of special allocations that can be distributed to departments to ensure the provision of core services.

3. Treasury Board Secretariat's Support to Treasury Board

Mary Chaput, Program Director, Government Operations Sector, TBS

Treasury Board (the Board) consists of six Ministers, and is constituted under the Financial Administration Act. TBS's role is analogous to the role played by PCO in supporting Cabinet's committees on social and economic policy. Hence, as a proposal to the Board makes its way through the system, Treasury Board Secretariat will review it and make a recommendation to the Board. This recommendation analyses the proposal from a government-wide context.

Usually, a proposal goes to the appropriate Cabinet Committee (social or economic) and then to Cabinet for approval. If financial proposals are included, Cabinet decisions will almost always include a sentence that delegates the authority to make a decision on a proposal's affordability and funding to the Treasury Board. Once the Board makes a decision, the decision becomes legal and the Secretariat advises the sponsoring department.

The Board evaluates a proposal against very strict criteria, similar to those used by other Cabinet committees.

- Is the proposal in keeping with the government's priorities?
- Does the government have a role to play in the area?
- Does the proposal fall within a department's mandate?
- Is the proposal appropriately budgeted? Given the fiscal framework, is it affordable?
- Is the design for delivery effective?
- Are the anticipated results clearly articulated?
- Is a performance measurement framework established?

4. Treasury Board Reporting to Parliament

Peter Green, Director, Planning, Performance & reporting, Comptrollership Branch, TBS

The shift to value-based public service is part of the government's commitment to results-based management. Instead of people working on projects and reports, Treasury Board wants public servants to focus on results and objectives. This is a major shift in attitude. As Treasury Board started to make these changes, they considered reporting to Parliament to be a crucial instrument. Now, every department reports to Parliament twice a year: in the Spring, when the President of the Treasury Board tables a report on each department's plans and priorities; and in the Fall he or she tables reports on performance for the previous year. A third document, the Main Estimates, describes what the government intends to spend on its initiatives. Parliament and citizens can see what their government intends to do, and how successful it was in achieving its objectives.

There are two advantages to this system. First, it promotes accountability and trust in the public service and decision-making processes. Second, it helps departments focus on the results they want to achieve and the ways to attain them. An open and transparent process is a learning opportunity, and contributes to better

management. By identifying shortcomings or failures, a department can make corrections.

In addition, results-based management and reporting to Parliament helps citizens get a better understanding of what government does. For example, when citizens think of the Department of Fisheries and Oceans (DFO), often they do not have a complete picture. As a result, in its priorities and plans, DFO will state its objective: to provide Canadians with a sustainable fishery. The department's activities can be seen and understood as working to realise this objective. Treasury Board approves the plan, called a Management Accountability Framework, which sets out the key results expected and performance measurers. Citizens can refer to these plans and priorities to understand the department's objectives and anticipate results.

Supporting Materials

Overview of Treasury Board Secretariat, slide presentation

Treasury Board Secretariat Organisational Chart

Results for Canadians, monograph

> Available at http://www.TBS-sct.gc.ca/res_can/rc_e.html

A Strong Foundation, monograph

> Available at http://www.ccmd-ccg.gc.ca/pdfs/tait.pdf
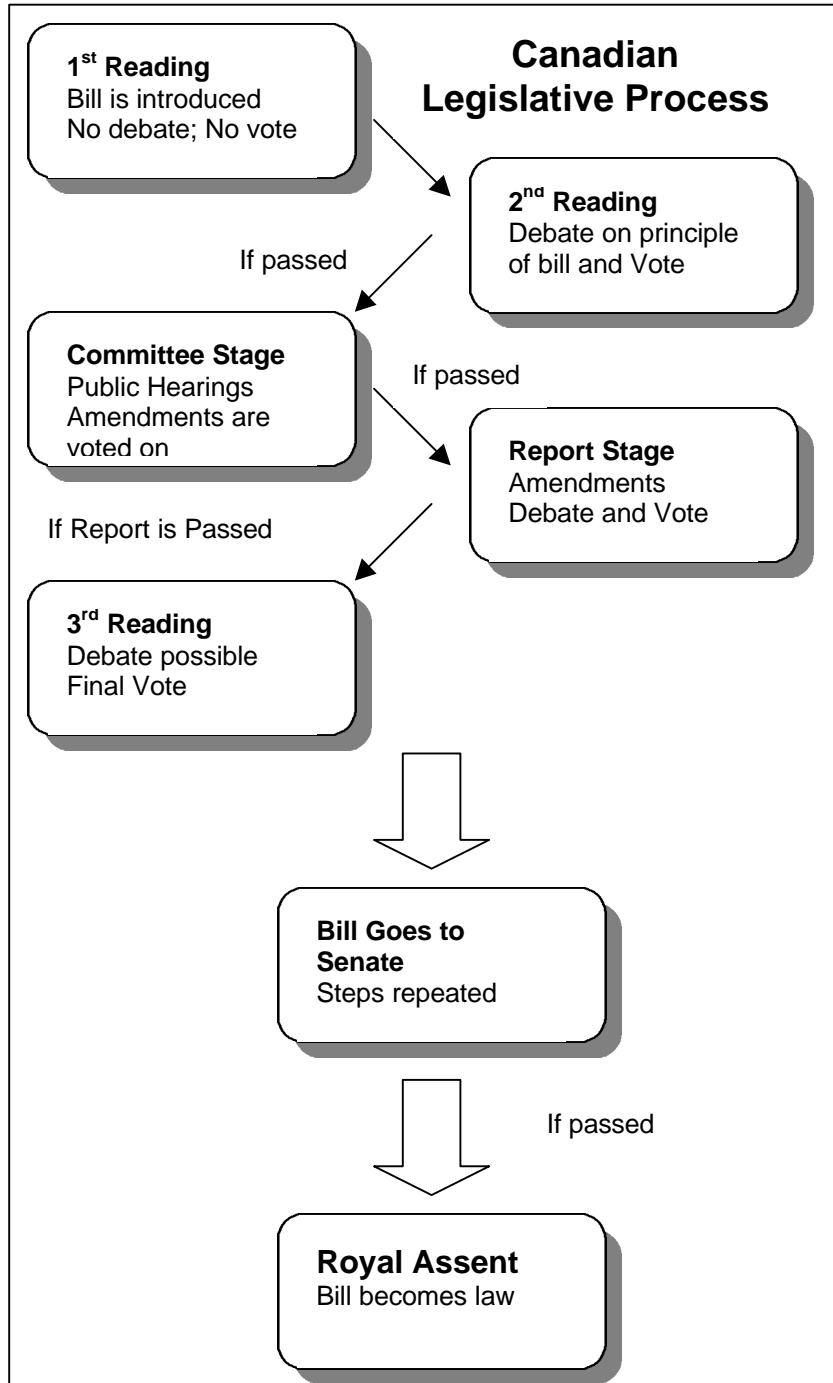

DEPARTMENT OF JUSTICE

1. Overview of Legislative Process and Department's Role

Stephen Bierbrier, Legal Counsel, International Cooperation Group, Justice Canada
Gavin Murphy, Legal Counsel, International Cooperation Group, Justice Canada

Canada is a constitutional monarchy with three branches of government: the executive (Governor General who is head of state; Prime Minister and Cabinet); the legislative (bicameral legislature based on Westminster model); and the judiciary (including the Supreme Court of Canada, federal and provincial courts).

The Department of Justice employs 2000 people, half of whom are lawyers and the other who provide support and research. In addition to being a department with policy and program prerogatives and responsibilities, the Minister of Justice is the attorney general, responsible for the legal affairs of the Government of Canada. The department has four major responsibilities:

- **Policy Development:** in a number of areas (e.g. human rights, administrative law, criminal law);

Canadian Legislative Process

1st Reading
Bill is introduced
No debate; No vote

If passed

2nd Reading
Debate on principle of bill and Vote

If passed

Committee Stage
Public Hearings
Amendments are voted on

Report Stage
Amendments
Debate and Vote

If Report is Passed

3rd Reading
Debate possible
Final Vote

Bill Goes to Senate
Steps repeated

If passed

Royal Assent
Bill becomes law

- **Litigation:** criminal prosecutions, tax litigation, etc.;
- **Legislative drafting:** responsible for drafting all laws and subordinate legislation; ensuring the consistency of legislation with Canadian Charter of Rights and Freedoms;
- **Government Counsel:** provides legal counsel to all government departments and agencies.

2. Legislative Drafting

Lionel Levert, Chief Legislative Counsel, Legislative Services Branch, Justice Canada

John Mark Keyes, Director, Legislative Policy and Development, Legislative Services Branch, Justice Canada

Cabinet Directive on Law-Making

The directive emphasises the many options available to departments to address policy issues. The time constraints (on Cabinet, on Parliament) being what they are, the directive seeks to ensure that departmental officials have exhausted other avenues and are certain that enacting a law is the appropriate instrument to accomplish an objective. The directive outlines other instruments available: providing information, educational programs, economic instruments (subsidies, fees); other legislative instruments (statutes or regulations), all of which can often be enacted within the framework of existing legislation and programs.

Law-Making Framework

If officials deem that a law is an appropriate response, the bill is drafted by Legislative Services Branch at the Department of Justice. In Canada, there are two levels of legislation: *primary* legislation, which are acts passed by Parliament, and *secondary* legislation, which is passed by the executive under the terms of enabling powers established by Acts of Parliament. Members of Parliament can also introduce legislation (though not of a financial nature), which is drafted by the Parliament's legal counsels.
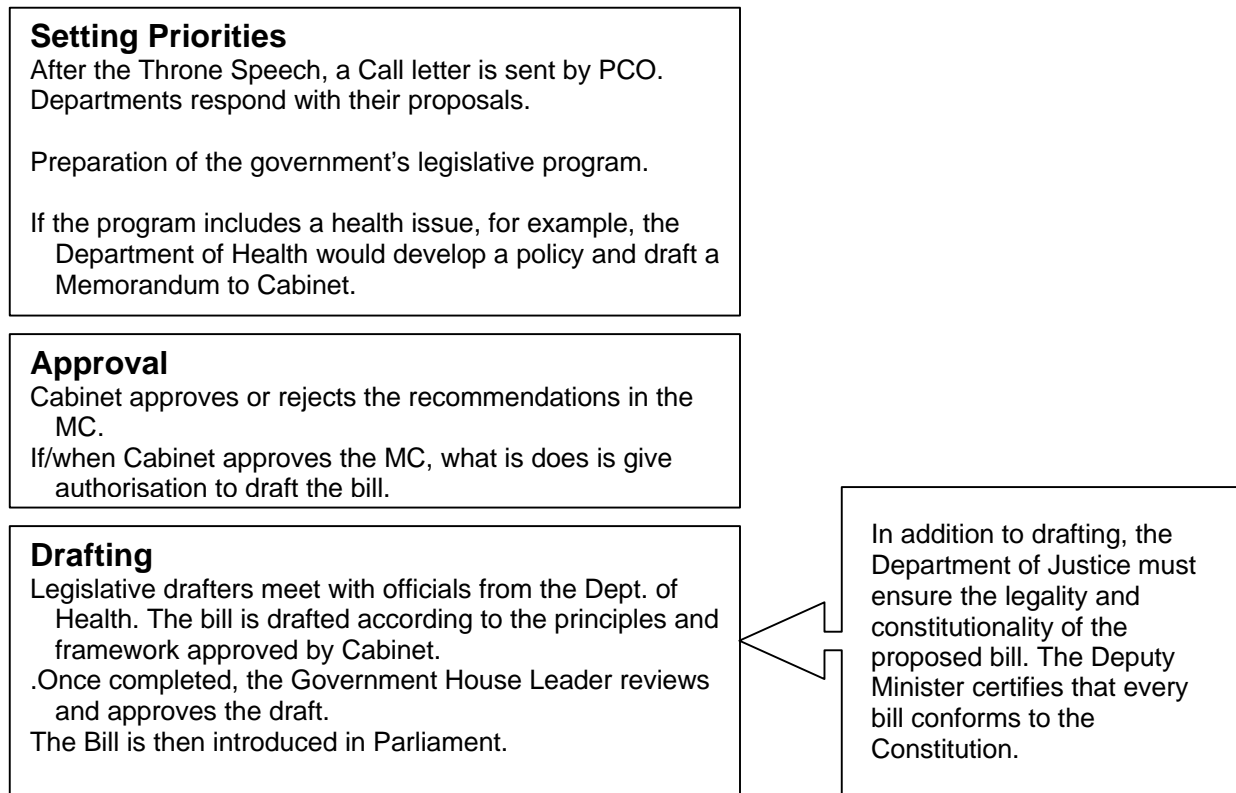
The Constitution is an important component of the legal framework: constitutional division of powers restricts Parliament's ability to legislate in certain spheres of activity. In addition, the Charter of Rights and Freedoms is a key determinant, as the government's legislative activity must conform to its dispositions.

Key players in the drafting process include Cabinet and its committees, departmental officials, the Department of Justice (counsels, drafters, etc.) and the Legislation & House Planning (LHP) secretariat of PCO. In fact, when Cabinet approves an MC, it authorises the Department of Justice to begin drafting legislation.

Planning and management of the government's legislative programme occurs at three levels. 1) Twice a year, PCO sends a call letter to all departments requesting proposals. 2) The Government House Leader, who is responsible for managing the government's activities in the House of Commons, reviews the proposals and presents a legislative agenda to Cabinet. 3) Cabinet approves the agenda and

departments prepare an MC. At this stage, the Legislative and House Planning Secretariat of PCO gets involved to manage the agenda. As Roxane Guérard, a Counsel with the Secretariat, informed delegates, the LHP Secretariat manages the government's legislative agenda, and ensure that all documents tabled by the Government conform to the same standards. It advises the Government House Leader on legislation and all other questions related to Parliament and its activities. Once a department gets approval to prepare an MC, the process may take up to a year before it culminates with a Bill that is tabled in Parliament. The MC is prepared by a department and approved by Cabinet. The Bill is then drafted and submitted to the Government House Leader, who ensures that it conforms to principles agreed to by Cabinet. Finally, once the Government House Leader approves, the Bill can be tabled in Parliament.

The Department of Justice drafters draft 60-70 bills a year. Of these, 25% are new laws and 75% are amendments to existing legislation. The timeframes vary, and are set by the Minister and political factors.

Setting Priorities
After the Throne Speech, a Call letter is sent by PCO. Departments respond with their proposals.

Preparation of the government's legislative program.

If the program includes a health issue, for example, the Department of Health would develop a policy and draft a Memorandum to Cabinet.

Approval
Cabinet approves or rejects the recommendations in the MC.
If/when Cabinet approves the MC, what is does is give authorisation to draft the bill.

Drafting
Legislative drafters meet with officials from the Dept. of Health. The bill is drafted according to the principles and framework approved by Cabinet.
.Once completed, the Government House Leader reviews and approves the draft.
The Bill is then introduced in Parliament.

In addition to drafting, the Department of Justice must ensure the legality and constitutionality of the proposed bill. The Deputy Minister certifies that every bill conforms to the Constitution.

---

3. Managing Subordinate Legislation

Helen Pierre, Senior Counsel, Justice Canada
Danielle Laurin, Legislative Counsel, Regulations Section, Justice Canada (Transport Canada Satellite Office)

Most legislation enacted by the Canadian Parliament is skeletal. Legislation contains provisions to delegate the authority to make regulations (in order to implement the law, etc.) to the Executive, or Cabinet. Enacting regulations is a simpler process, which helps reduce the demands on the time of Cabinet and Parliament.

The development of regulations begins in departments where officials determine what regulations are required. They can draft the regulation themselves and submit it to the Regulations Section for approval.

There are other ways to proceed. When a department drafts its own regulations, the Department of Justice must review them. In fact, the Deputy Minister of the Department of Justice is required to certify that all regulations are consistent with the Charter of Rights and Freedoms and with the intentions of the original Act. If a mistake is made in drafting, the department must start over. To avoid this risk, the Regulations Section can consult with a Department at preliminary stages to determine whether a proposed regulation would be consistent with existing laws. Similarly, a department can approach the Department of Justice to ask its lawyers to draft the regulation. The department provides the policy outline; lawyers translate the outline into law. A final possibility is to establish a Regulations satellite office within a Department. The Department of Transport has chosen to do this. [*] They have full-time counsels that work exclusively on their regulations. Since the department has its own team of drafters, it does not need to compete for the time of legislative drafters based at the Department of Justice and can concentrate on policy development.

4. Ensuring the Linguistic Quality of Laws

André Labelle, Chief Jurilinguist and Legislative Counsel, Jurilinguistic Services Unit, Justice Canada

The jurilinguistic section provides support to legislative drafters to ensure that the language is of high quality and that both French and English language versions are equivalent. The unit consists of ten people with backgrounds in translation, legal language and law. The jurilinguist's main responsibility is to ensure the linguistic and legal quality of documents. They advise drafters on questions of terminology and technical complexity. They ensure that a text conforms to existing legislation and to styles and formats prevalent in the legal profession.

5. Legislative Editing Office: Role and Responsibility

Robert DuPerron, Chief Legislative Editor, Justice Canada

---

[*] The departments of Health and of Environment have established similar satellite units.

Mr. DuPerron is responsible for two sections that assist legislative drafters, the Legislation editing office and the Database Management Office.

Legislation editing office

Legislative revisers must approve a draft before it is distributed. They ensure that a document conforms to the standards established for presentation and check cross-references. They sometimes rewrite certain sections to promote clarity. The editor must substantiate corrections made to a draft. Hence, a drafter always has the final word on the file. The role of the reviser is to ensure a consistency in the drafting and in presentation and that the legislation corresponds to the intention of the Cabinet's decision, to the Charter and other international agreements.

An important part of the office's work is tracking changes made to legislation once it has been tabled in Parliament. They track these changes and make the necessary corrections to the bill. The sector keeps a hard copy of the document, and changes are pasted onto the original. Each act and regulation has a binder where every revision to the legislation is recorded. Drafters will refer to this version to ensure that they are using the most current document. The same team of five English-speaking and five French-speaking editors edit, proofread and revise. In a year, roughly 12,000 pages of regulations and 10,000 to 11,000 pages of acts are reviewed.

The sector is also responsible for publishing all acts of the Canadian Parliament in three formats: as a stand-alone document (as well as on the website); in Part 3 of the Canada Gazette; and in a bound volume at the end of each year.

Database Management Unit

This unit is responsible for the electronic publishing of legislation. The data is stored and published on government websites and distributed on CD-ROMs.

Supporting Materials

Federal Legislative Drafting, slide presentation

Managing Subordinate Legislation, written presentation (Helen Pierre and Danielle Laurin)

Department of Justice Organisational Chart

Website: canada.justice.gc.ca

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT

The Canadian Centre for Management Development (CCMD) is dedicated to preparing present and future public servants to meet the new challenges of management. Through learning and training, CCMD seeks to promote good governance and effective leadership among senior public servants, as well as prepare future generations of executives. It seeks to develop capacity within the federal public service for better risk management and governance of horizontal policy issues.

1. Training and Developing Young Managers

Dan Burke, Director General, Corporate Learning Programs, CCMD

There are four ways to develop competence in public service managers. First, analyse existing leaders and list qualities that they exhibit. Second, analyse the strategies and goals of an organisation and concentrate on developing competencies required to attain those goals. Third, base competencies on the core values of the organisation. Fourth, determine which competencies managers need to learn and demonstrate.

There are four building blocks to developing required skills and attitudes.

1. Research the competencies required for the goals set by the organisation (including knowledge, skills and attitudes).

2. Develop assessment tools to provide evaluation and feedback to managers. With assessment, it is possible to identify gaps in learning.

3. Develop a learning plan. Determine the learning activities that are necessary to fill the gaps in the organisation.

4. Implement the procedures required to make the system of assessment and training effective.

Within the Canadian public service, no formal training program is required to rise to executive-level (EX) positions. A candidate can apply for a position based on existing qualifications and skills. A preferred route, however, is to proceed through a formal development program, such as the Accelerated Executive Training Program offered by CCMD. This program is designed to identify EXs that demonstrate potential to become Assistant Deputy Ministers. The program sends candidates on assignments to learn and develop skills and assess their skills in five categories: intellectual capacity, visioning, management ability, interpersonal relations, and personal skills. After their assignments, CCMD looks for experience in six areas: line programs, policy shops, central agency experience, regional operations, corporate services, and exposure to the political level. Hence, future ADMs are exposed to a

department's every function. Successful completion of the Accelerated program means an executive at the first level (EX1) can be promoted to the third (EX3).

The Public Service Commission of Canada finances these programs. But, because the Canadian public service is ageing, even these special development programs will not generate the quantity of executives required to replace current EXs. Canada faces a crisis: it will be increasingly difficult to replace ageing managers and executives. There are currently 20,000 middle managers that must be prepared to replace executives. On average, these managers are 42 years old. The average age of the 1,600 Directors is 52. They will start retiring in 3 years.

Public Service Executives
25 Deputy Ministers
175 Assistant Deputy Ministers (EX4-5)
300 Directors General (EX 3)
400 Directors General (EX2)
1,600 Directors (EX1)
20,000 Managers to be trained

PROVINCIAL AND MUNICIPAL GOVERNMENTS IN CANADA

As a federation, Canada has both federal and provincial levels of government, both of which are based on the British Westminster system of parliamentary government. Provincial governments are responsible for most social policy including health, education, and social assistance while the federal government has authority over defence, foreign relations, trade, monetary policy, criminal law, and residual powers.

Municipal governments in Ontario are creations of the province: the Canadian Constitution does not recognise them as separate governments. The federal government generally has little business with municipal authorities. Municipalities' existence and powers are established by provincial legislation. In fact, a municipality cannot add services or functions unless the province passes legislation authorising them.

Municipal government has undergone profound change in recent years. Presentations at the Ministry of Municipal Affairs and Housing of the Government of Ontario, as well as at the City of Toronto, provided an outline of these changes. The delegation also heard from David Amborski, an academic working in the area of provincial-municipal relations, who expanded on local government finance and policy-making.

GOVERNMENT OF ONTARIO: MUNICIPAL AFFAIRS AND HOUSING

1. Local Government in Ontario: An Overview

Stephen Stein, Senior Policy Advisor, Local Government Policy Branch, Municipal Affairs & Housing, Ontario

Almost half the province of Ontario is uninhabited. The majority of its population of 11 million is located close to the border with the United States. The capital of Ontario is Toronto which, at 2.34 million, is the largest city in Canada.

In Canada, the federal and provincial governments basically have equal status. If the province wants to change a Ministry or its responsibilities, it can do so unilaterally. But in the British North America Act (Canada's original constitution), municipal governments are not viewed as a level of government *per se*. They are described as institutions and no role is formally assigned to them.

Municipalities have dual accountability: to their citizens who elect mayors and councillors, and to the provincial government. Since the province is totally capable of overriding a municipality, it can be a strained relationship. For example, six municipalities in the Greater Toronto Area were amalgamated against the wishes of the population and of municipal representatives in 1998.

There are several broad categories of municipal government in Ontario:

1. Regional governments or regions: a two-tier system. Local municipalities constitute the lower-tier, and are encompassed within a larger geographical entity called region. Cities are members of this larger region, or upper-tier. The region has responsibility for providing major local services, such as major roads, sewer and water, social services police and land-use planning.

2. Counties: a variation of the above, but where cities are separate. They are not included in the upper-tier. In this system, the local municipalities (lower tier) are responsible for providing most services. Counties provide the roads and some social services.

3. There are also 'area' or 'local' municipalities. These municipalities have responsibilities for providing all local government services.

One piece of legislation, the Municipal Act, governs all municipal government, no matter a municipality's size or location. Municipalities are governed by elected representatives. There are 2,800 such representatives in Ontario. Elections are held province-wide every three years.

Turning to revenues, municipalities obtain funds from three sources:

1. Property taxes: Properties are assessed and municipalities levy a tax based on property values from owners.

2. Provincial grants: In most cases, municipalities can allocate the funds the way they see fit. Some grants are conditional and tied to the provision of specific and mandated services.

3. Own-source revenue: This includes licensing fees and user charges. These are increasingly controversial, as municipalities turn to these sources to palliate falling tax revenues and grants. They are politically unpopular.

2. Local Governance Reform

Ling Mark, Manager, Municipal Support Services Branch, Municipal Affairs & Housing, Government of Ontario

Three pieces of legislation underlie recent efforts at restructuring municipal government in Ontario: Bill 26 (Savings and Restructuring Act); Bill 25 (Fewer Municipal Politicians Act); and Bill 62 (Direct Democracy Through Municipal Referendums Act). The current government's view of municipal restructuring is that municipal governments should work together to provide services. They encourage restructuring in order to build capacity, improve service delivery; reduce the size of government; reduce duplication; and enhance accountability and accessibility.

Since 1996, municipal restructuring in Ontario has drastically reduced the number of municipalities and councillors.

Date	Number of Municipalities	Number of Councillors
January 1996	815	4586
January 2001	447	2804

Restructuring is accomplished in two ways:

1- Locally-developed proposal

Municipalities agree on a plan to share in the provision and delivery of services to reduce duplication, and achieve benefits of scale. After a mandatory public consultation, municipalities draft a plan. Before it is submitted to the Minister, a proposal must be supported by a 'triple majority' of municipalities representing the majority of electors, and a majority of municipal councillors. The proposal is then submitted to the Minister for approval and implementation.

2- Commission-developed restructuring

In cases where local efforts fail and municipalities cannot reach agreement on how restructure their activities, the Minister can appoint a commission to resolve the issues. Only 5% of all restructuring in Ontario was accomplished in this manner. A Commissioner is appointed by the government but acts independently. The commissioner consults affected municipalities, conducts at least one public

consultation and prepares a draft proposal for the Minister's approval. The Minister can proceed with restructuring over the objections of residents and municipal governments if necessary.

Supporting Materials

Municipal Government in Ontario, slide presentation

Restructuring Ontario's Municipalities, slide presentation

Ministry of Municipal Affairs Mission Statement and organisational chart

---

MUNICIPAL GOVERNMENT: THE CITY OF TORONTO

1. Overview: roles and responsibilities in provincial-municipal government

Hilda Briks, Senior Corporate Management and Policy Consultant, City of Toronto
John Elvidge, Senior Corporate Management and Policy Consultant, City of Toronto

Toronto is the largest city in Canada and the capital of the Province of Ontario. The structure of the City of Toronto has changed significantly over the past 50 years:

> 1953: Creation of two-tier Metro government (federation of municipalities)

> 1967: 13 municipalities amalgamated into 6

> 1970s: Creation of two-tier regions in the rest of the Greater Toronto Area

> 1988: Direct election of Metro Toronto City council

> 1998: 6 local municipalities and Metro Toronto amalgamated, thus reorganising the way services are delivered in Toronto, as well as the way revenue is raised

> 1999: Greater Toronto Services Board established by the provincial government to ensure oversight into transportation and other planning issues that deal with the Greater Toronto Area (the City and neighbouring regions)

Local Services Realignment (LSR) is a policy that guides the Government of Ontario's reorganisation of provincial-municipal relations and determines each level's powers and responsibilities (including funding). Within LSR, the provincial government 'offloaded' a number of service and funding responsibilities to the City of Toronto. For example, the City now funds 100% of its public transportation system, and 50% of education (the province assumes the cost of the other 50%). City of Toronto officials raised a debate as to the fairness of these transfers. At the outset, they were supposed to be cost neutral, yet many services offloaded are very capital-intensive. The City contends they are not cost-neutral and have compromised the City by $250 million.

In addition, municipalities are hamstrung when it comes to raising revenues. The City is constrained by the assessment base. If this base does not grow (i.e. if the City does not continue to grow), the tax base and revenues stagnate, which puts in question the municipalities' ability to continue to provide services. Since cities are unable to borrow money to finance operating costs, there are limited options for raising revenue: through fees and charges (which are politically sensitive); or through asking provincial authorities for assistance (which is not always forthcoming). The City of Toronto is seeking to amend the Municipal Act to grant municipalities in Ontario greater opportunities to pool the cost of social services, to enter into partnerships with other municipalities or with private sector providers, etc.

Amalgamation also brought a change in the City's political structure. When the City was created, the number of councillors dropped from 57 to 44. Federal and

provincial constituency boundaries now coincide with municipal boundaries. Two councillors represent each of these ridings. Councillors are elected on a riding-by-riding basis, and the mayor is elected by all residents. There are no formal parties or caucuses at the municipal level. Individual councillors may be aligned with one or another political party, but these allegiances do not matter within Council. Toronto has a so-called 'weak mayor': the mayor has only one vote in Council and must convince colleagues to support his or her initiatives. The mayor, however, derives significant authority from the fact that he or she is directly elected by all residents and commands significant media attention. Council meets on a monthly cycle. Policies and issues are usually considered by committees (there are six Standing committees and six community councils) before going to full Council. The Community councils represent regions and consider local matters (e.g. signage, building permits, etc.).

Supporting Materials

City of Toronto Overview and Governance Issues, slide presentation

---

2. Delivery of Social and Other Municipal Services

Nancy Matthews, Manager, Social Policy Research & Analysis, City of Toronto

---

The City has six administrative units to oversee the planning and provision of services (social and neighbourhood, economic development, urban development, financial, corporate, works). A Commissioner manages each unit. The units are divided into divisions, each of which reports to the Commissioner. The Commissioner, in turn, reports to the appropriate Committee of City Council.

For example, the Community and Neighbourhood Services Unit (CNS), responsible for the provision of social services in the City, has a number of operating divisions: child services; social services; shelter and housing; homes for the aged; social development and administration. Each division reports to the Commissioner to CNS, who in turn reports to City Council's Community Services Committee. These are the lines of authority in the City of Toronto, outlining accountability relationships and the difference between political and bureaucratic orders at the municipal level.

One-third of the City's budget is devoted to social programs. CNS has 8,000 employees and manages a gross budget (including provincial transfers) of $2.5 billion ($765 million net of provincial contributions, grants or transfers). The costs of social assistance programs (welfare, childcare and emergency shelters) are shared with the province. In such areas, the provincial government sets the policy direction, establishes standards and regulations, and sets an accountability framework for the program. In areas where costs are shared, the City's role is to deliver services.

For example, a contentious issue is social housing. The province offloaded the responsibility for administering, delivering and funding social housing in Toronto. But the City was not given control over policy levers to influence the demand for social housing. The Municipality argues that programs that are income-redistributive in nature should be financed from income tax rather than property tax. Municipalities

need to develop, in cooperation with the provincial governments, the appropriate tools to manage homelessness.

3. Municipal-Provincial Relations

David Amborski, Ryerson School of Urban Planning

Mr. Amborski concentrated his remarks on the issue of local government finance and policy development.

Provincial-municipal relations are not identical across Canada. Different Canadian provinces have adopted different approaches. Over the past three years in Ontario, the government has brought in many changes to their approach to municipal government, including amalgamation, offloading service responsibilities and property tax reform. While it is an interesting case, Ontario does not necessarily present a model to be emulated in Ukraine or elsewhere.

Amalgamation presents an interesting possibility for Ukraine. Benefits and increased effectiveness can be achieved by eliminating duplication of services and having the most appropriate level of government provide them (for instance, the upper-tier is in a better position to provide sewage and water, health and social services in an effective manner).

But Mr. Amborski contends that implementation of amalgamation and service off-loading has created problems in Ontario. He believes that the provincial government assigned the wrong functions to municipalities. They were given responsibilities that are redistributive in nature (i.e. social housing; emergency shelters, social assistance) but were not given the authority or policy instruments to address the underlying causes of these issues. The municipality is responsible for funding social programs but has no authority to look at underlying social and political causes. This presents a potential funding problem, as with an increase in the demand for social services, a municipality will be hard-pressed to maintain funding levels for all its services. In fact, it would probably have to consider cutting services or raising revenues from other, less popular, sources such as taxes and fees.

Another promising line of enquiry is the role played by citizens in planning and budgeting. When municipalities prepare their long-term plans, citizens' input is required. In addition to public hearings where citizens are invited to comment on a municipality's plans, government is required to provide independent audits, statistics and reports. Citizen participation is required in two additional areas.

1. In strategic planning: municipalities engage in such exercises to prepare for future growth and anticipate consequences for communities. Such plans are a guide to a municipality's plans for future development. The provincial government provides conditional grants to municipalities that hold public hearings and include citizens and community groups in their decision-making on strategic plans.

2. Land use planning: Public participation is required when a municipality establishes or amends its master plans or zoning bylaws. In fact, in each of these

cases, at least one public meeting must be held. Announcement of the meeting must be made in local newspapers, and the municipality must publish the details of the proposed change. In addition, they are required to notify all property owners who are located near the property for which zoning changes are sought.

Land use and citizen participation

A master plan gives broad designations for what a parcel of land can be used for: residential, commercial, industrial or open space. Zoning bylaws will give detailed designations. For example, in a master plan, a parcel of land can be designated residential. Zoning bylaws stipulate which kind of residential building can be built on the site (single-family or apartment). In addition, zoning bylaws regulate a building's height and density, parking, etc.

If an owner wants to use property in a way that is incompatible with existing zoning regulations, he or she must apply for an amendment to the official master plan *and* to the bylaw. The Planning Act establishes the procedure to make such a request: the form an amendment must take; how it must be presented to Council (public hearings are required, then a vote). In the end, City Council decides to amend the plan and bylaws. If the decision does not satisfy the property owner or other residents of the affected area, they may appeal the Council's decision to a provincial quasi-judicial body, the Ontario Municipal Board. It, too, follows procedures that mandate public consultations before rendering its decision.