

Appendix 1 Procedure of the Parliamentary Counsel's Committee

The PCC provides a forum for the preparation of uniform and model legislation. It consists of the heads of the offices of Parliamentary Counsel for the Commonwealth, the States, the ACT, the Northern Territory and New Zealand and the head of the Office of Legislative Drafting for the Commonwealth. The Secretariat is presently located in NSW and the Secretary to the Committee is Annette O'Callaghan (ph: 02 9321 3300, email: annette.ocallaghan@pco.nsw.gov.au).

Initiation of project. The PCC receives its work in 3 principal ways:

1. Projects specifically referred to the PCC from time to time by the Council of Australian Governments (COAG). These projects are initiated by a letter from the COAG Secretariat to the PCC Secretary that describes the outcome desired and indicates the name and contact details for the lead instructing officer for the project. The PCC Secretary places the matter on the PCC agenda and circulates any relevant material to other members of the PCC.
2. Projects received from Ministerial Councils or from national governmental bodies, seeking the drafting of uniform or model legislation. These projects are initiated by a letter from the person or body concerned to the PCC Secretary that describes the outcome desired and indicates the name and contact details for the lead instructing officer for the project. The PCC Secretary places the matter on the PCC agenda and circulates any relevant material to other members of the PCC. In some cases, it may be necessary for PCC to first discuss whether it is appropriate for PCC to accept the reference.
3. Projects placed on the PCC agenda by one or more of its members. This happens when Parliamentary Counsel, individually or collectively, are assigned a project which they consider warrants or would benefit from collective consideration and discussion. These projects are initiated by contacting a member of the Committee who may request the PCC Secretary to place the matter on the PCC agenda and circulate any relevant material to other members of the PCC.

Allocation of work. Some drafting projects involve all or most jurisdictions, while others involve fewer jurisdictions. There is a lead drafter for each project. The PCC Secretary seeks volunteers for the project and the PCC decides which jurisdiction will provide the lead drafter.

Drafting process. The lead drafter may need to discuss the approach (both general and detailed) of a draft with the lead instructor and in these circumstances may give a preliminary draft to the lead instructor for comment to check that the draft is on the right track. Drafts are circulated by the lead drafter to other Parliamentary Counsel for comment. Parliamentary Counsel will not, as a general rule, provide these drafts to local instructors as these drafts are at the developmental stage and the intention is that the lead drafter will, as a result of comments received from other Parliamentary Counsel, be able to refine the draft before it is released as the PCC draft. It is the responsibility of the lead instructor to circulate the draft to instructors generally.

PCC Report. When a draft is settled by the PCC, a formal report, with the draft attached, is provided to the Ministerial Council or other body that requested the legislation. The report may draw attention to any matter of concern to the PCC.

Timing. It is desirable that the lead instructor keep the lead drafter informed of the priority of the particular exercise. While all reasonable efforts will be made to settle drafts within the desired timetable, the contingencies of parliamentary programs and differential timing of peak work periods may not make this possible.

Confidentiality. PCC treats its work with the same high level of confidentiality that applies to the ordinary work of Parliamentary Counsel. Instructions to Parliamentary Counsel, and drafts or other advice provided by Parliamentary Counsel, are subject to legal professional privilege and that privilege is not waived by the circulation of instructions, drafts or other advice among PCC members.