



Building Blocks

Pre-Workshop Reading for

How Government Works 101

Winter 2011-12 Edition



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Modules

Module One: The Central Agencies

Module Two: Cabinet as Government

Module Three: Democratic Institutions

Purpose

The purpose of these modules is to introduce you to some of the basic structures, processes and outputs of government. These will provide you with some background for our three-day workshop. The main concepts worth remembering are highlighted in blue.

Context

While the *How Government Works 101* workshop is an introductory workshop, we have found over the years that the speed of the workshop is not oriented to those who are completely new to the government. The three modules provide some of the basic information that will be repeated in the workshop. Thus, through about an hour of pre-study, you will have a roadmap and a basic understanding of the signs you will encounter along the way.

Is this resource necessary for me? A Quick Test

Below are six questions. Scan these now. If these questions are Greek to you, then the following modules will be helpful for you. If you do understand the questions, try answering them. Then check your answers against mine (at the end of this document), and judge again whether this material will benefit you.

1. The CDSR is the abbreviation for what?
2. Is GiC another name for Cabinet or for the Privy Council Office?
3. Is the Standing Committee on the Environment a Cabinet Committee?
4. Is the Clerk of the Privy Council the equivalent of the DM to the PM?
5. What document must be approved before a programme receives new money? A TBS or an MC?
6. What is the relationship between a Part III of the Estimates and the RPP?

Ian Hornby
How Government Works facilitator

Caveat

Explaining the rudiments of government structure and process comes at a price. Details and exceptions to the norm have been removed. Opinions expressed here are the opinions of the author and do not necessarily reflect the views of the Government of Canada nor of Building Blocks

Module One: The Central Agencies

The usual approach for this kind of workshop is to start with the democratic process and move inwards towards the center of government. But I want to reverse the process and start with the view of government that you are most used to.

Before the advent of astronomy, the church held that the sun and all heavenly bodies orbited around the earth. It was considered heresy to ever posit that it was the earth that in fact rotated around the sun.

This kind of view is the same kind of view that needs to be challenged in terms of government. Most people feel that government revolves around the department – their department. or maybe it revolves around Parliament. But instead I want to create a different body at the center of all of the orbits, and, not Parliament, but rather the Privy Council Office.

Now, the reason for putting this at the center is that from the perspective of working in government, as opposed to Parliament, this is fact: The *Privy Council Office (PCO)* is at the center of everything.

Historical Context: Many Canadian structures are based in British Parliamentary tradition. And there remains a tradition, dating back well over 500 years, that the Head of State (the Queen) alone has the prerogative to propose to Parliament how monies should be spent. And while tradition and statutes say that government can only spend moneys voted by Parliament, there is a countervailing tradition that Parliament *must* vote the money that is requested of it by the government. This is one reason that from a *functional perspective*, you could see the Privy Council Office (or possibly Treasury Board), and not Parliament, as the sun around which the departments orbit.

The Privy Council Office is led by the most senior public servant, the *Clerk of the Privy Council*. While this position is a political appointment, traditionally this post is held by someone who has been a senior public servant, usually a deputy minister, for many years. The Privy Council Office itself is staffed by public servants, many of whom rotate into it from a department and then return to a department within one or two years. Within the Privy Council office, there is an “analyst” assigned to each department. The role of this analyst is to ensure that the policies and programs of the department are aligned with the policies of the government. Analysts are not partisan, but they must be politically sensitive.

One of the processes that concerns the Privy Council Office is coordinating the submission of *Memoranda to Cabinet (MCs)*. These MCs are used to either renew or initiate new policies and programmes. MC's are not used to provide new monies to departments.

PCO is referred to as a *Central Agency*. This agency has the power to make or break policies and programmes within a department. Each *Deputy Minister (DM)* (basically the administrative head of a department) is accountable to the Clerk of the Privy Council (and not to her Minister).

Beyond the PCO, there are three other central agencies: First, the *Treasury Board Secretariat (TBS)*, ostensibly provides advice to a cabinet committee called, the *Treasury Board*. But in addition, as a central agency, the Treasury Board Secretariat works with departments to ensure that there is proper accountability for money spent by the departments. There are other parts of the Treasury Board Secretariat that are concerned with policies, such as the policy on privacy of information, official languages, or travel. The Treasury Board Secretariat works with departments to devise their spending plans. There are two principal documents that are concerned with spending plans, and these are:

Treasury Board Submission, or TB Sub. This document is prepared by a department to request that money be provided to a programme. The Treasury Board Submission does not so much justify the programme in terms of policy merit, but rather demonstrates that the money will be well spent and properly accounted for.

The Estimates. The Treasury Board Secretariat works with the departments to develop annual expenditure plans for each department. These are then totaled up and compiled into a huge book called the *Main Estimates*, also called the *Blue Book*, that is introduced into the House of Commons by the Minister responsible for the Treasury Board, called the *President of the Treasury Board*, usually in late February or early March. In addition to the Main Estimates, there are smaller documents called *Reports on Plans and Priorities (RPP)*, or *Part III of the Estimates*. And each major department and agency has one of these. These are tabled in Parliament along with the overview of departmental Estimates contained in *Part I*. Later on in the year, additional funds are requested of Parliament by government in *Supplementary Estimates or Supps*.

The third of the central agencies is the *Department of Finance*. This department has a statutory mandate, under the *Financial Administration Act*, to develop a *fiscal framework* on an annual basis. In particular, the fiscal framework identifies the sources of the monies that government will spend, usually a combination of different taxes and debt. The fiscal framework is announced each year in Parliament by the Minister of Finance, in the Budget Speech. I emphasize here, that the *Budget Speech* is not the document that technically provides information on government expenditures: those details are in the Estimates, that were discussed immediately above.

The last of the central agencies is the *Department of Justice*. All lawyerly functions of government are assigned to this department. Thus all legislation and regulations are drafted by the Department of Justice; legal advice is provided only by Justice lawyers; and if the federal government is to prosecute or defend a case; those lawyers will be provided by the Department of Justice.

Module Two: Cabinet as Government

This workshop is called *How Government Works*, so perhaps we should define what we mean by government. A good starting point would be to distinguish between what we refer to as the *Head of State* and the *Head of Government*.

In Canada, the Head of State is either the Queen or the Governor General. A strict interpretation of the Constitution would say that that is the Queen; but in terms of the current reality, it's the Governor General who is Head of State in everything but name. And by Head of State, we mean that they are the head of the country, rather than merely the government of the day.

The *Governor General* is appointed by the Queen, on the advice of her Prime Minister. Mr. Stephen Harper, in introducing Governor General *David Johnston*, said that Mr. Johnston was selected by a nonpartisan committee.

But the country does not run itself: it is the government that runs the country. Our head of government is the *Prime Minister, Mr Stephen Harper*. By recent tradition, the Prime Minister is a Member of Parliament and the leader of the party with the most seats in the House of Commons after a general election.

The Prime Minister will gather around him or her a group of parliamentarians who will then each be assigned, for the most part, a department. These are the *Cabinet Ministers*. So, for instance, the Minister of Industry, is also Cabinet Minister. There are also some Cabinet ministers who do not have a department, and these are called *ministers without portfolio*.

Now I am going to tie the Cabinet back to that main central agency that was described above, the Privy Council. All cabinet ministers are sworn into the Privy Council. The PCO serves that Council. Typically and procedurally, we do not refer to Cabinet as the Privy Council, but rather we refer to it as *Governor-in-Council (GiC)*: The theory is that the Cabinet consists of the Prime Minister and his or her other ministers who are advising the Governor General who sits at the head of Governor-in-Council meetings. But in reality it is the Prime Minister who chairs that committee, and it would be very rare for the Governor General to actually attend a meeting. So, remember, Cabinet equals Governor-in-Council.

Most of the business of cabinet does not take place in the full cabinet, but rather in one of its subsets, which are called Cabinet committees. Two examples of Cabinet committees are: the *Treasury Board* and the *Cabinet Committee on Social Affairs*. All decisions from Cabinet committees are in law recommendations to the full cabinet, which then ratifies those recommendations.

The most significant document that departments use to communicate proposals to cabinet is the *Memorandum to Cabinet (MC)*, a heavily formatted and structured document. The paper that records the Cabinet's disposition of an MC is called a *Record of Decision (RD)*. The other pieces of paper that would be used to record a decision of Cabinet would be either a GiC or and an *Order-in-Council (OIC)*. For instance, regulations are made by way of an OIC.

Module Three The Democratic Institutions

Our national legislature is called the *Parliament of Canada*. It is bicameral, in that there are two chambers: the “lower house,” which is the *House of Commons*, and the “upper house,” which is the *Senate*. Senators are appointed by the Governor General on the advice of the Prime Minister; and the House of Commons is populated with *Members of Parliament* who are elected usually during a general election.

In addition to sittings in the House of Commons, Members of Parliament are grouped together in approximately 25 *House of Commons committees*, most of which are named after a department. The formal name for most of these committees is “the House of Commons Standing Committee on [Industry]” there are approximately 14 members of Parliament that sit on each of the standing committees. The term “standing” means that the committee is permanent for an entire Parliament.

A “Parliament” refers to the time span between two general elections. A new parliament comes into being by way of the election of the Speaker of the House of Commons and a Throne Speech. A *Speech from the Throne (SFT)* is then used to start each new session within the current Parliament. Each session of Parliament is terminated by way of a *Prorogation*. We currently have our 41st Parliament, which means that there have been 41 general elections since Confederation. This Parliament is in its first session, which means that there has been only one speech from the Throne since this Parliament began.

The Speech from the Throne is a document that provides a high-level view of the program of the government. While it is driven by the wishes of the Prime Minister’s Office, its writing is coordinated by the PCO, and then read by the Governor General in the Senate.

I am going to include some information here that stretches the term democratic institutions. First, I want to point out that what underlies Canadian democracy is our Constitution, which consists of two major portions: the *Constitution Act of 1867* (formerly called the *British North America Act– the BNA*) and the *Charter of Rights and Freedoms*. The Constitution is an entrenched document, meaning that it cannot be as easily changed as easily as other statutes. Further, it is the supreme law, meaning that if there is a conflict of between the Constitution and another statute, it is the other statute that is invalid.

Before the coming into force of the Charter of Rights and Freedoms, the *Supreme Court of Canada*, as Canada’s highest court, had taken a very limited role in determining conflicts between rights and laws. But since 1985, when the Charter’s equality provisions (sec 15) came into force, the Supreme Court has become much more engaged in balancing the rights of Canadians against statutes passed by the Canadian parliament and provincial legislatures. I would argue, that in this way, the Supreme Court is the final arbiter of Canadian rights, and therefore what it does is support Canadian democracy, even when it strikes down laws passed by Parliament. I did not invent this argument, and I will explain it further during our workshop.

I look forward to continuing this information journey in the workshop.

Ian Hornby
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Is this resource necessary for me? Answers from the Quick Test

1. The CDSR is the abbreviation for what?

Cabinet Directive for Streamlining Regulations. If you did not know this and you do not deal with regulations, don't worry: this is to be expected.

2. Is GiC another name for Cabinet or for the Privy Council Office?

GiC stands for Governor in Council. It the formal name for Cabinet.

3. Is the Standing Committee on the Environment a Cabinet Committee?

No. The term "Standing" reveals that it is a House of Commons or Senate Committee, but the Senate does not have an Environment Committee. Further, there is no *Cabinet Committee on the Environment*.

4. Is the Clerk of the Privy Council the equivalent of the DM to the PM?

Yes. And the Clerk is also the Secretary to Cabinet and the Head of the Public Service.

5. What document must be approved before a programme receives new money?

A TBS or an MC? An MC (Memorandum to Cabinet) provides policy or programme approval. A Treasury Board Submission (TBS) is the document that requests the money.

6. What is the relationship between a Part III of the Estimates and the RPP?

They are the same document.