

Structure of the House committee system

- 4.1 The structure of the House committee system has largely gone unchanged over the last 20 years, apart from some reforms in 1998 and minor adjustments over time as the House's needs have changed. A more comprehensive consideration of the effectiveness of the current structure is therefore timely.
- 4.2 The Committee addresses this in this chapter, considering the inquiry's first term of reference, which includes:
- the process for appointing Members to committees;
 - eligibility criteria for serving on committees;
 - the number and type of committee positions;
 - the number and subject coverage of committees; and
 - proposals for new committees.

The process for appointing Members to committees

- 4.3 Members are appointed to committees by a process that involves nomination by party Whips, written advice to the Speaker, and a resolution of the House. This contrasts with systems in some other parliaments.
- 4.4 For example, in the UK committee membership is determined by the Committee of Selection, and formally approved by the House.¹ Similarly,

¹ Dr P. Larkin, *Submission No. 14*, p. 6.

the Business Committee of the New Zealand Parliament appoints members to committees.²

Committee conclusions

- 4.5 The Committee has not received any evidence concerning the means by which Members are appointed to committees, and concludes that the system appears to be performing satisfactorily and equitably. However, it notes that Independent Members are appointed to committees through the same mechanism as Opposition backbenchers, including submitting their nominations to the Chief Opposition Whip. It may be appropriate to establish an alternative mechanism for Independent Members, which may assist Independent Members in becoming more aware of the opportunities available to them. However, as the Committee has not received specific evidence on this, it does not make any recommendation for change at this time.

Eligibility criteria

Shadow spokespersons: do they have a role in committee work?

- 4.6 Committee service is considered to be one of the parliamentary duties of private Members: office holders have not normally served on committees, with the exception of a few *ex officio* positions. Given the role of committees in scrutinising the executive, it has been considered inappropriate for Ministers and Parliamentary Secretaries (that is, government frontbenchers) to serve on committees.³
- 4.7 Amongst government Members, committee work is therefore carried out exclusively by backbenchers. In contrast, all non-government Members, whether on the front or back benches, are considered private Members, and are therefore eligible to serve on committees.

2 New Zealand Parliament, *Business before the Business Committee*, viewed 18 December 2009, at: http://www.parliament.nz/en-NZ/PB/SC/Details/Business/f/d/d/00DBHOH_BBSC_SCBU_1-Business-before-the-Business-Committee.htm.

3 The practice of the House recognises, however, that there may be special circumstances (e.g. the particular character of a Member's electorate) that make it desirable for a Minister or Parliamentary Secretary to serve on a committee; *H.R. Practice*, p. 635.

- 4.8 In practice, many shadow ministers and shadow parliamentary secretaries (that is, opposition frontbenchers) are members of committees. At the time of writing, there are 22 shadow spokespersons on House or joint committees, filling one-third of all non-government positions.⁴ This may be partly because of the educative benefits of committee work, outlined in Chapter 1, which may be particularly pertinent to the roles of shadow spokespersons.
- 4.9 Committee work is, therefore, theoretically shared between Opposition frontbenchers and backbenchers. In practice, the particular demands of their frontbench positions may limit the time that shadow spokespersons can devote to committee work. The strain between the portfolio and committee responsibilities is noted by the Department of the House of Representatives (DHR):
- Given the significant demands on their time and their specific policy focus, opposition spokespersons may only be able to attend where an inquiry or briefing is directly on their portfolio responsibilities.⁵
- 4.10 This may cause difficulties for committees if they are unable to secure adequate attendance at meetings, particularly when receiving evidence from witnesses. The Hon. Kevin Rozzoli submits that all Opposition Members, with the exception of 'the Leader and Deputy Leader and perhaps a small Opposition inner executive group', be eligible to serve on committees. He suggests this would result in a more equitable distribution of committee work:
- With the greater pool of members to draw from this would mean most members would serve on only one committee.⁶
- 4.11 This view, however, does not adequately reflect the real demands on shadow spokespersons. The DHR therefore suggests drawing the permanent membership of committees exclusively from the backbench.⁷ Members with shadow responsibilities would still be able to join a committee for a particular inquiry as a supplementary member.

4 The 22 shadow spokespersons fill, between them, 35 of the 105 positions available to non-government Members. Membership details extracted from: House of Representatives, *Notice Paper*, No. 144, 22 February 2010.

5 Department of the House of Representatives, *Submission No. 6*, p. 6.

6 The Hon. Kevin Rozzoli AM, *Submission No. 2*, p. 5.

7 Department of the House of Representatives, *Submission No. 6*, p. 6.

Committee conclusions

- 4.12 The Committee accepts that portfolio responsibilities may compromise the time shadow spokespersons can devote to committee work. However, the Committee also considers that committee work provides these Members with opportunities to make useful contributions relevant to their portfolio responsibilities and specific policy interests, and to develop expertise. The Committee carefully considered the option of excluding shadow spokespersons from permanent membership of committees, while continuing to engage them as supplementary members for particular inquiries.
- 4.13 On balance, the Committee favours permanent membership being open to the broadest possible range of Members. It therefore does not support excluding shadow spokespersons from permanent committee membership. However, the Committee notes that this is an important issue to be monitored over the coming years. In the interim, it asks that the Whips and shadow spokespersons take into account the particular demands of portfolio responsibilities, and consider making greater use of supplementary membership provisions, if appropriate.

Ministers and Parliamentary Secretaries

- 4.14 As discussed in the previous section, committee service is generally confined to private Members. Mr Rozzoli submits that committee work should involve as many Members as possible, including Parliamentary Secretaries.⁸ Professor Ian Marsh concurs that there may be some benefit in Parliamentary Secretaries being eligible for committee membership on an *ad hoc* basis.⁹

Committee conclusions

- 4.15 The Committee considers that the inclusion of Parliamentary Secretaries may potentially compromise the perceived effectiveness of committees' scrutiny role. It therefore favours the continuation of the established practice of the House, which precludes Ministers and Parliamentary Secretaries from being members of committees, unless in exceptional circumstances.

8 The Hon. K. Rozzoli, *Submission No. 2*, p 5.

9 Professor I. Marsh, *Submission No. 13*, p. 11.

‘External distinguished specialists’

4.16 The membership of House committees is currently confined to Members of the House of Representatives. Professor Marsh suggests there may be some benefit in extending temporary membership to ‘external distinguished specialist members’ for particular inquiries, in a non-voting capacity if necessary.¹⁰

Committee conclusions

4.17 Committees currently utilise external expertise through the inquiry process, and secretariats draw on similar expertise from time to time by seconding staff with relevant skills and knowledge. The Committee considers this to be consistent with the spirit of Professor Marsh’s suggestion.

4.18 The Committee considers it appropriate that membership remain limited to Members, given that these committees are bodies of the House of Representatives. There may be scope for committees to build on the expert advice currently received by way of submissions, and evidence at hearings and briefings, but this should be at the discretion of individual committees. The Committee therefore does not recommend any change at this time.

The number and types of committee positions

4.19 As noted in Chapter 2, one of the determinants of a committee system’s effectiveness is the amount of time Members are able to dedicate to their committee work. In this section, the Committee discusses the distribution of committee responsibilities. It considers each type of committee position – permanent, supplementary, and the leadership positions of Chairs and Deputy Chairs – with a view to making the contributions of Members more effective and distributing committee responsibilities and opportunities more equitably.

10 Professor I. Marsh, *Submission No. 13*, p. 4.

The overall number of committee positions and their distribution

4.20 Excluding *ex-officio* positions filled by the Speaker and Deputy Speaker, there are currently 256 positions on House and joint committees that may be filled by Members of the House of Representatives.¹¹ There are currently 115 Members available to serve on committees, *including* shadow spokespersons.¹² Each Member is required, on average, to serve on 2.2 committees. Figure 4.1 shows the actual distribution of committee positions among available Members.

4.21 Several submissions note with concern the requirement for Members to serve on multiple committees.¹³ The Standing Committee on Legal and Constitutional Affairs (LACA) submits that Members' committee workloads are too heavy for this reason:

Due to the competing demands on their time, Committee members are prioritising certain committees or inquiries and often feel they are stretched too thinly across their responsibilities and interests. ... [Reforms would] reduce the competing demands felt by Committee members, ensure that witnesses are heard by more than a quorum or sub-committee quorum of members, and enable greater participation of committee members in inter-state activities.¹⁴

4.22 The Committee has been made aware of the significant demands on Members as a result of the high number of committee positions in the House committee system. Evidence received by the Committee has consistently supported a reduction in the number of committee positions in order to ease the competing demands on Members and to make the committee system more workable.¹⁵

11 Department of the House of Representatives, *Submission No. 6*, p. 5. Appendix F provides a revised and detailed account of the number of positions available to Members on House and joint committees.

12 This figure excludes Ministers, Parliamentary Secretaries, and the Leader of the Opposition.

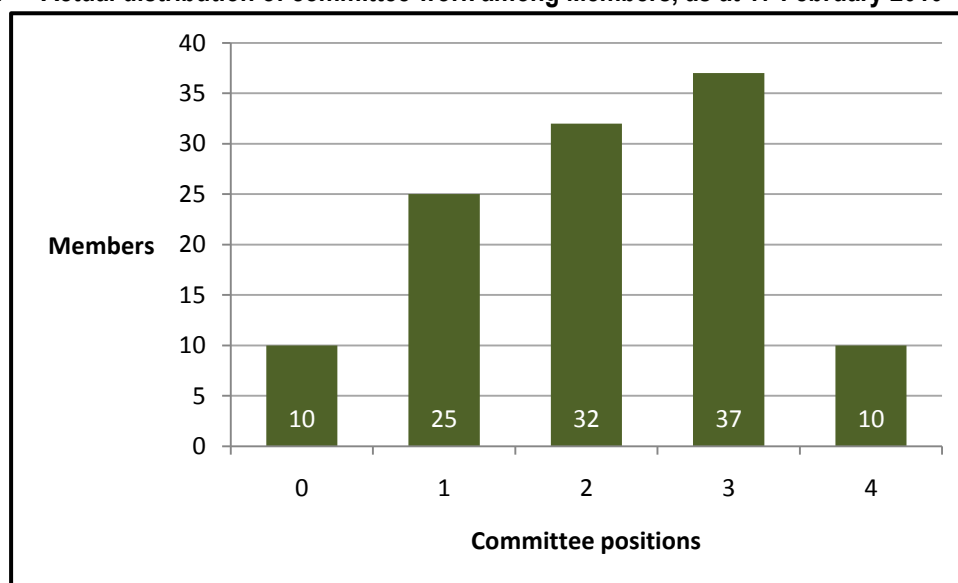
13 The Hon. Kevin Rozzoli AM, *Submission No. 2*, pp. 4-5; Department of the House of Representatives, *Submission No. 6*, p. 4; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2; roundtable discussions with Members.

14 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2.

15 The Hon. K. Rozzoli AM, *Submission No. 2*, p. 5; Department of the House of Representatives, *Submission No. 6*, p. 6; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2; consultations with Chairs and Deputy Chairs.

4.23 As significant as the *overall* number of positions is the way those positions are *distributed* amongst Members (see figure 4.1). Over 40 per cent of available Members serve on three or more committees, while 10 Members currently do not serve on any. It appears that for some Members, committee work is a major part of their parliamentary work, while not for others. However, Members serving on only one or two committees may have chosen to do so in order to focus more of their time and attention on fewer committees.

Figure 4.1 Actual distribution of committee work among Members, as at 17 February 2010



Source House of Representatives, Notice Paper No. 144, 22 February 2010.¹⁶

4.24 There is also an uneven distribution of committee positions between government and non-government private Members. At the time of writing, each government backbencher is a member of, on average, 3.1 committees, while non-government Members each serve on an average of 1.6 committees each.¹⁷

4.25 To some extent, this may be a product of the higher proportion of government positions on committees, consistent with the distribution of positions in the Chamber: 59 per cent of committee positions are for government Members, which is comparable to the Government's 55 per cent majority in the Chamber.¹⁸ The imbalance may also reflect the

¹⁶ Similar figures were provided by the DHR in its submission. Since that time, however, the distribution of positions has changed somewhat, and these revised figures were calculated on the basis of membership information provided in the House of Representatives Notice Paper.

¹⁷ Detailed statistics relating to committee positions are available in Appendix F.

¹⁸ As at 17 February 2010. Detailed calculations appear in Appendix F.

fact that the Opposition frontbench is currently included in the pool of Members available for committee service.

- 4.26 There is evidence to suggest that there are significant demands on Members as a result of the number of committee positions and the way they are distributed. The Committee favours reforms that may redress the imbalance in the distribution of committee work among Members, while still ensuring that the committee system reflects the structure of the main chamber. Some options are considered below.

Permanent membership

House general purpose standing committees

- 4.27 There are 10 permanent positions on each general purpose standing committee. This number has varied since the establishment of the House committee system: originally set at 12 and growing to a peak of 14, before being reduced to 10 in 1998.¹⁹
- 4.28 Evidence to the inquiry was generally supportive of a further reduction in the number of permanent places on each committee, which would allow some Members to serve on fewer committees.²⁰

Committee conclusions

- 4.29 The Committee accepts that requiring Members to serve on fewer committees may alleviate some time pressures, while allowing them to dedicate more time and attention to their chosen committees.
- 4.30 Different membership models were considered by the Committee, and these are summarised in table 4.1. For Members to serve, on average, on two or fewer committees, there would need to be no more than eight permanent positions on each general purpose standing committee.
- 4.31 However, even with a reduction in the permanent membership of each committee, the distribution of committee work would remain quite uneven between government and non-government Members. For example, a membership of eight would result in each government Member serving on 2.8 committees: double the 1.4 positions for the average non-government Member. The appearance of an uneven

19 Department of the House of Representatives, *Submission No. 6*, p. 6.

20 The Hon. K. Rozzoli AM, *Submission No. 2*, p. 5; Department of the House of Representatives, *Submission No. 6*, p. 6; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2; consultations with Chairs and Deputy Chairs.

distribution of work between government and non-government Members may be due to the present inclusion of shadow spokespersons in the pool of Members available for appointment. As discussed earlier, the real opportunities this provides to the Opposition outweigh potential gains from excluding shadow spokespersons. This uneven distribution will therefore continue.

Table 4.1 Membership models for general purpose standing committees

Positions per committee ^a			Overall reduction in committee positions	Positions per available Member ^b		
<i>Total</i>	<i>Govt</i>	<i>Non-govt</i>		<i>Govt</i>	<i>Non-govt</i>	<i>Overall</i>
10	6	4	0	3.1	1.6	2.2
8	5	3	26	2.8	1.4	2.0
7	4	3	39	2.6	1.4	1.9
6	4	2	52	2.6	1.2	1.8
5	3	2	65	2.3	1.2	1.7
3	2	1	91	2.0	1.0	1.4

NOTES

a Includes the Standing Committee on Petitions, which currently has a membership of 10.

b Includes positions on all House and joint committees on which Members may serve. Includes shadow spokespersons

4.32 The Committee favours the seven member model, which would result in private Members filling, on average, 1.9 committee positions, lower than the current average of 2.2. Any fewer than seven Members may make committee proceedings unworkable, and further gains may be made from other reforms considered in this chapter.²¹

Recommendation 10

The Committee recommends that, for general purpose standing committees and the Petitions Committee, membership be reduced to seven: four government Members, and three non-government Members.

21 See the section on the number and subject coverage of committees, below.

House domestic committees

- 4.33 Most domestic committees have a membership of seven.²² The Committee has not received any evidence in relation to the membership levels of domestic committees, and therefore does not recommend any change at this stage.
- 4.34 However, because most House domestic committees have a membership of seven, if the recommendation above is accepted the House may wish to reconsider membership of domestic committees to maintain the current relativities.²³ Relativities with Senate committees²⁴ and other issues may also be relevant to some House domestic committees, and the Committee would therefore support these committees being consulted prior to any change being made to their membership levels during the 43rd Parliament.

Joint committees

- 4.35 Similarly, the Committee has not received evidence specifically relating to the membership of joint committees. With membership levels ranging from nine to 34, there may be some scope to rationalise joint committee membership and introduce greater consistency.²⁵ Nevertheless, the Committee accepts the DHR's view:

The need to maintain relativities between the House of Representatives and the Senate would mean that reduction in overall numbers is unlikely to proceed without agreement from the Senate to reduce its own membership on joint committees. In the specific case of [the Joint Standing Committee on] Foreign Affairs, Defence and Trade, membership of this committee is highly sought and any move to reduce the number of committee positions available is likely to be resisted.²⁶

22 The Standing Committee on Petitions and the Committee of Privileges and Members' Interests have 10 and 11 members, respectively.

23 Modelling for a reduction in the number of general purpose standing committees, combined with reduced membership for general purpose standing committees (and domestic committees) is available in Appendix F.

24 For example, the Publications Committee meets regularly in conference with its Senate counterpart, and relativities with the membership of the Senate's committee may be a consideration.

25 Department of the House of Representatives, *Submission No. 6*, pp. 6-7. Since the time of the DHR's submission, the membership of the JSCFADT has increased to 34. These figures include positions to be filled by Senators.

26 Department of the House of Representatives, *Submission No. 6*, pp. 6-7.

4.36 Although the Committee sees some scope for consolidation and streamlining, this would require consultations with the Senate and with the individual committees involved, and possibly the amendment of legislation. There may be merit in retaining some flexibility and, at this stage, the Committee does not recommend any change to the membership of joint committees.

Supplementary membership: increasing flexibility and workability

4.37 The standing orders allow each general purpose standing committee to supplement its membership by up two Members (one government, and one non-government) for a particular inquiry.²⁷ This provision has been used from time to time.

4.38 Evidence received by the Committee revealed considerable support for increasing the use of supplementary members on general purpose standing committees.²⁸ This type of membership offers significant advantages by giving Members more flexibility and making the committee system more workable.

4.39 House general purpose standing committees have quite broad areas of responsibility. For example, the Standing Committee on Education and Training encompasses issues as varied as early childhood programs, primary education, universities, and vocational training. While a Member may be interested in an inquiry undertaken into one of these issues, the other areas may not be as relevant to his or her electorate or policy interests. The DHR supports extending the use of supplementary members to permit more Members to participate in those inquiries of particular interest to them.²⁹

4.40 Because supplementary membership is currently limited to two members per general purpose standing committee, significant interest in a particular inquiry can result in numerous changes being made to the permanent membership of a committee. Increasing the number of supplementary members can mitigate this, thereby potentially making the committee system more workable.

27 Standing order 215(d).

28 Department of the House of Representatives, *Submission No. 6*, p. 6; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2; consultations with Chairs and Deputy Chairs.

29 Department of the House of Representatives, *Submission No. 6*, p. 6.

Committee conclusions

- 4.41 The Committee sees many advantages to increasing the number of supplementary positions for each inquiry of general purpose standing committees, particularly in light of its earlier recommendation to reduce the number of permanent positions. Extending supplementary membership may allow more Members to make valuable contributions to areas of most relevance to them, while accommodating their other commitments.
- 4.42 For proceedings relating to the inquiry for which the Member has been appointed, supplementary members should have the full range of participatory rights. They should therefore be counted for quorum requirements, and participate in evidence-gathering activities and all formal discussions regarding that particular inquiry. The Committee does not, however, favour supplementary members having voting rights.
- 4.43 Expanding supplementary membership may increase the administrative burden for secretariats, particularly when one secretariat has a number of inquiries running concurrently. Although not insurmountable, this challenge should be acknowledged, and adequate resources ensured.³⁰
- 4.44 On balance, the Committee favours increasing supplementary positions to four. Although there are a number of alternative models, this option ensures that supplementary members do not outnumber the permanent membership of a committee. Depending on take-up and a range of other considerations, the Committee recognises there may be benefit in reviewing the number of supplementary positions, once the Committee's recommendation is implemented and has been in operation for some time. In particular, the House will need to evaluate whether the number of supplementary members relative to the permanent cohort has any disruptive effects on the cohesion and culture of committees.

30 Resources are discussed further at Chapter 2.

Recommendation 11

The Committee recommends that:

- the standing orders be amended to:
 - ⇒ increase to four the maximum number of supplementary members for each general purpose standing committee inquiry; and
 - ⇒ give supplementary members full participatory rights, including being counted for quorum purposes, but no voting rights, for the inquiry for which they have been appointed to the committee;
- supplementary members, when travelling for committee purposes, be eligible for the relevant entitlements; and
- as soon as possible after one year of these changes being made to the standing orders, a review be undertaken by the Standing Committee on Procedure.

Subcommittees: composition and quorum

4.45 House committees may:

appoint subcommittees of three or more of its members and ...
refer to a subcommittee any matter which the committee may
examine.³¹

4.46 Subcommittees are sometimes appointed for the purpose of gathering evidence to inquiries, especially for interstate hearings and inspections. In light of the proposed changes to the areas of responsibility for general purpose standing committees (discussed later in this chapter), there may be merit in committees being able to appoint a 'inquiry subcommittee' to carry out a particular inquiry. Inquiry subcommittees could have responsibility for accepting evidence and authorising its publication; determining how the inquiry should be carried out, and implementing these decisions; and drafting a report for the consideration of the full committee.

31 Standing order 234.

4.47 Similar arrangements currently exist for some committee work. For example, the Joint Standing Committee on Foreign Affairs, Defence and Trade has four subcommittees.³² The Joint Committee of Public Accounts and Audit has the power to appoint sectional committees.³³ Among other activities, these subcommittees and sectional committees carry out discrete inquiries. The reports of their inquiries are then provided to the full committee for its consideration and adoption, before presentation in the Chamber.

Committee conclusions

4.48 The Committee favours amending the standing orders to enable the establishment of a new type of subcommittee: the inquiry subcommittee. The minimum number of members (whether permanent or supplementary) should be three, in line with current requirements. However, at least one of those should be a Chair or Deputy Chair of the full committee, to ensure that the inquiry subcommittee's decisions and actions are consistent with all other inquiries and activities being undertaken by the committee. Similarly, the quorum should continue to be two members of the subcommittee, provided that one of those is the Chair or Deputy Chair of the full committee. The Committee considers that, in the first instance, inquiry subcommittees be introduced for House general purpose standing committees only.

4.49 The concerns about continuity and consistency also apply to non-inquiry subcommittees (which would continue to be appointed from time to time for specific purposes) currently enabled by standing order 234. The Committee therefore supports the composition and quorum requirements for those subcommittees to be amended to provide that one of those members is to be a Chair or Deputy Chair of the committee.

32 Subcommittees on Foreign Affairs; Defence; Trade; and Human Rights.

33 See section 9 of the *Public Accounts and Audit Committee Act 1951*.

Recommendation 12

The Committee recommends that the standing orders be amended as follows:

- standing order 234 (a) and (c) to read:
 - (a) A committee may appoint subcommittees of three or more of its members, at least two of whom being permanent members of the committee and at least one of whom being a Chair or Deputy Chair of the committee, and may refer to a subcommittee any matter which the committee may examine.
 - (c) A quorum of a subcommittee is two of its members, at least one of whom being a Chair or Deputy Chair of the committee.
- insert new standing order 234A:

234A Inquiry subcommittees

 - (a) A committee appointed under standing order 215 may appoint inquiry subcommittees of three or more of its members, at least two of whom being permanent members of the committee and at least one of whom being a Chair or Deputy Chair of the committee, and may refer to an inquiry subcommittee any inquiry being undertaken by the committee.
 - (b) A committee appointed under standing order 215 shall appoint the Chair of each inquiry subcommittee, who shall be drawn from the Chair or Deputy Chairs of the committee, who shall have a casting vote only. If the Chair of an inquiry subcommittee is not present at a meeting of the subcommittee, the members of the subcommittee present shall elect another member of that subcommittee to act as Chair at the meeting.
 - (c) Members of the committee who are not members of an inquiry subcommittee may participate in the public proceedings of the subcommittee but may not vote, move any motion or be counted for the purpose of a quorum.

Chairs and Deputy Chairs

Non-government Chairs

- 4.50 The standing orders require that each House committee elect, from its membership, a government Member as its Chair, and a non-government Member as Deputy Chair.³⁴ These positions are officially recognised and remunerated to reflect their additional responsibilities.
- 4.51 One submission suggests that Chair positions be distributed between government and non-government Members. It argues that the appointment of non-government Chairs may moderate the ‘partisan approach taken by many committees’.³⁵

Committee conclusions

- 4.52 The Committee notes that concerns about partisanship in House committees are at odds with most feedback the Committee received, which highlighted the cooperative and non-partisan approach generally taken by House committees. Furthermore, Dr Phil Larkin notes that, in other parliaments with non-government committee Chairs, the allocation of these positions can be politically charged.³⁶ On balance, the Committee considers that the relative harmony of the current system outweighs any potential gains from an alternative system.

The increasing demands on Chairs and Deputy Chairs

- 4.53 Demands on Chairs and Deputy Chairs, in particular, are considerable and have been increasing recently. These demands arise partly from the high volume of work undertaken by some committees, and from Members serving on several other committees. Conflicting committee schedules can compromise Members’ capacity to attend all meetings.
- 4.54 Therefore, there is more pressure on Chairs and Deputy Chairs to attend all meetings, including interstate hearings and inspections, to ensure quorum requirements are met. At the same time, Chairs and Deputy Chairs must still fulfil the parliamentary, electorate and other responsibilities expected of Members.

34 A joint committee may have as its Chair and Deputy Chair two Members, two Senators, or one of each.

35 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, p. 11.

36 Dr P. Larkin, *Submission No. 14*, p. 7.

4.55 Although the reforms suggested earlier in this chapter³⁷ may alleviate some of these pressures, another change that was proposed to the Committee was to increase the number of Deputy Chairs on general purpose standing committees: one drawn from the government Members on the committee, and the other from non-government Members. It was considered that this would facilitate a greater leadership role for Deputy Chairs, perhaps including chairing some public hearings. This may be particularly beneficial when a committee has a number of inquiries or hearings running concurrently.

Committee conclusions

4.56 The Committee acknowledges the practical and professional opportunities offered by the proposal to increase the number of Deputy Chairs, including remunerating both Deputy Chairs in a way that recognises their additional duties and time dedicated to committee work. It also notes the broad support the proposal received from Chairs and Deputy Chairs consulted as part of the present inquiry.

4.57 A number of recommendations in this report are likely to place further demands on Chairs and Deputy Chairs in particular, including the requirements to have one of these members present at each subcommittee meeting³⁸ and representing the committee as a member of the Aboriginal and Torres Strait Islander Affairs (ATSIA) committee.³⁹ The Committee considers an increase in the number of Deputy Chairs an appropriate way to address this outcome and to make the distribution of committee work more equitable.

4.58 It considers, however, that there would be merit in reviewing this after a considerable period of operation, to ensure that there are no adverse, unintended consequences.

37 Reducing permanent membership numbers, and increasing supplementary membership.

38 See paragraphs 4.48 to 4.49.

39 See recommendation 16 and paragraph 4.97.

Recommendation 13

The Committee recommends that the number of Deputy Chairs on general purpose standing committees be increased to two, and that one Deputy Chair be drawn from government Members of the committee, while the other be a non-government Member of the committee. The Committee recommends that, after these arrangements have been in place for approximately 12 months, a review be conducted by the Procedure Committee.

Participation by other Members

4.59 In addition to permanent and supplementary members of committees, the standing orders currently permit other Members of the House of Representatives to be involved in a committee's proceedings. Although this is not a 'type' of committee membership, it is considered by the Committee in this section because, like supplementary membership, it increases the committee system's flexibility and responsiveness to the needs of Members.

4.60 Standing order 241 currently reads:

241 Admission of other Members

Other Members, who are not members of the committee, may be admitted when a committee or subcommittee is examining a witness, or gathering information in other proceedings. Other Members must leave when the committee or subcommittee is deliberating, or hearing witnesses in private, or if the committee or subcommittee resolves that they leave.

4.61 The DHR submits that standing order 241 is silent on whether other Members in attendance may participate in the proceedings and the extent to which they might do so.⁴⁰ It is unclear, for example, whether 'other Members' may question witnesses. The DHR recommends the following amendments:

241 ~~Admission~~ Participation of other Members

Other Members, who are not members of the committee, may ~~be admitted~~ participate, with the explicit approval of the committee,

40 Department of the House of Representatives, *Submission No. 6*, p. 12.

when a committee or subcommittee is examining a witness, or gathering information in other proceedings. ...⁴¹

Committee conclusions

- 4.62 There may be scope to clarify the intent of this standing order, and the Committee supports the amendments proposed by the DHR. Such amendments would clarify the intent of the provisions and potentially encourage the participation of more Members in committee work. The extent to which these provisions are utilised in future would determine whether any further flexibility is warranted.

Recommendation 14

The Committee recommends that standing order 241 be amended to read:

241 Participation of other Members

Other Members, who are not members of the committee, may participate, with the explicit approval of the committee, when a committee or subcommittee is examining a witness, or gathering information in other proceedings. Other Members must leave when the committee or subcommittee is deliberating, or hearing witnesses in private, or if the committee or subcommittee resolves that they leave.

Quorum requirements for committees

- 4.63 In light of the Committee's recommendations changing the number of permanent and supplementary positions, it is pertinent to reconsider quorum requirements for committees.
- 4.64 At present, the quorum of a committee is three members.⁴² If the number of permanent members is reduced to seven, a quorum of three may continue to be appropriate, given the increased number and role of supplementary members. It may also make sense to ensure that at least

41 The change to the title of the standing order is proposed by the Committee, consistent with amendments proposed by the Department.

42 Standing order 233.

one of those members is a permanent member of the committee. This would assist with continuity and ensure that decisions take into account all other inquiries and activities being undertaken by the committee.

Committee conclusions

- 4.65 The quorum provisions of subcommittees were considered on pages 73 to 75. The Committee sees merit in similar adjustments being made to provisions for committees, to reflect fewer permanent positions and the changing role of supplementary members.

Recommendation 15

The Committee recommends that the standing orders be amended to provide that the quorum of a general purpose standing committee is three members, at least one of whom being a Chair or Deputy Chair of the committee.

The number of committees: is there an ideal?

- 4.66 It has been suggested that, theoretically, the greater the number of committees (relative to the size of the chamber), the greater the independence from the executive government and the more effective a committee system is considered to be.⁴³ On this measure, the House is comparable with the parliaments of New Zealand and Scotland and with the Canadian House of Commons.
- 4.67 In practice, however, having a very large number of committees can compromise the amount of time and attention Members can devote to each.⁴⁴ The desire for independence from the executive government must be balanced with workability and practical considerations.
- 4.68 As noted earlier, the current overall number of positions available in the House committee system has led to significant demands being placed on Members. Earlier in this chapter, an attempt was made to address this by reducing the number of *positions on each committee*. In this section, the

43 Dr P. Larkin, *Submission No. 14*, p. 5.

44 More committees presumably means more committee positions (overall and for each Member) and more commitments to be shared amongst the same number of Members; Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 1.

Committee addresses the proposal that reconsidering the *number of committees* might also be helpful. Such a reduction might also assist Members in doing more of the high quality work they expect.

- 4.69 The Committee notes the difficulties associated with determining what might be an 'ideal' number of committees. The desire to ease pressures on Members must be balanced against the House's need to have a sufficient number of committees to permit effective scrutiny of the government and participation in the full range of public policy debates.
- 4.70 The process of arriving at a number of committees that will satisfy both of these considerations cannot be carried out without reference to subject coverage. In this section, the Committee therefore considers both the number and subject coverage of House and joint committees.⁴⁵

House general purpose standing committees

- 4.71 There are currently 12 House general purpose standing committees, as listed in table 4.2.
- 4.72 The subject coverage of general purpose standing committees has varied over time to reflect changes in administrative arrangements and policy priorities.⁴⁶ Complemented by a number of joint committees, the current subject coverage of House committees allows scrutiny of all aspects of government policy and administration.⁴⁷
- 4.73 As table 4.2 shows, much like those of the UK and Canadian Houses of Commons and the parliaments of New Zealand and Scotland, the House committee system generally reflects the structure of ministerial portfolios.⁴⁸ This is considered a strength, enabling the committee system to better monitor government policies and actions.⁴⁹
- 4.74 The Committee's discussions with colleagues revealed significant support for reducing the number of House general purpose standing committees. The LACA Committee also advocates reducing the number of committees

45 Subject matter is also considered in the next section, in the context of considering proposals for new committees or changes to existing committees' areas of responsibility.

46 This also applies, albeit to a lesser extent, to joint committees.

47 Department of the House of Representatives, *Submission No. 6*, p. 1.

48 Dr P. Larkin, *Submission No. 14*, p. 5.

49 The Hon. K. Rozzoli, *Submission No. 2*, p. 4; Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, p. 5.

in order to mitigate some of the competing demands imposed on Members.⁵⁰

Table 4.2 Ministerial portfolios and House committees

House general purpose standing committee	Main government department(s) ^a
Aboriginal and Torres Strait Islander Affairs	Families, Housing, Community Services and Indigenous Affairs
Family, Community, Housing and Youth	Human Services
Climate Change, Water, Environment and the Arts	Environment, Water, Heritage and the Arts Prime Minister and Cabinet (climate change)
Communications	Broadband, Communications and the Digital Economy
Economics	Finance and Deregulation Treasury
Education and Training Employment and Workplace Relations	Education, Employment and Workplace Relations
Health and Ageing	Health and Ageing
Industry, Science and Innovation	Innovation, Industry, Science and Research
Infrastructure, Transport, Regional Development and Local Government	Infrastructure, Transport, Regional Development and Local Government
Legal and Constitutional Affairs	Attorney-General's
Primary Industries and Resources	Agriculture, Fisheries and Forestry Resources, Energy and Tourism

NOTE

- a In addition to these main government departments, most committees are able to scrutinise the work of several other portfolios (or parts thereof), in accordance with the Speaker's schedule allocating annual reports to committees.

Table 4.3 Effect of reducing the number of general purpose standing committees

General purpose standing committees	Positions per committee ^a			Overall reduction in committee positions	Positions per available Member ^b		
	Total	Govt	Non-govt		Govt	Non-govt	Overall
12	7	4	3	39	2.6	1.4	1.9
10	7	4	3	53	2.4	1.3	1.8
8	7	4	3	67	2.2	1.2	1.6

NOTES

- a Assumes membership of seven, as recommended by the Committee. Includes the Standing Committee on Petitions, which currently has 10 members.
- b Includes positions on all House and joint committees on which Members (including shadow spokespersons) may serve.

50 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2.

Table 4.4 Proposed new structure of House general purpose standing committees

Proposed committee	Proposed area of responsibility	
	<i>Current committee(s)</i>	<i>Main government department(s)</i>
Aboriginal and Torres Strait Islander Affairs ¹	Aboriginal and Torres Strait Islander Affairs	Families, Housing, Community Services and Indigenous Affairs
Economics and Industry	Economics Industry, Science and Innovation Primary Industry and Resources	Agriculture, Fisheries and Forestry Finance and Deregulation Innovation, Industry, Science and Research Treasury Resources, Energy and Tourism
Education and Employment	Education and Training Employment and Workplace Relations	Education, Employment and Workplace Relations
Environment and the Arts	Climate Change, Water, Environment and the Arts ²	Environment, Water, Heritage and the Arts
Health	Health and Ageing	Health and Ageing
Infrastructure and Population ²	Communications Infrastructure, Transport, Regional Development and Local Government	Broadband, Communications and the Digital Economy Infrastructure, Transport, Regional Development and Local Government
Legal Affairs	Legal and Constitutional Affairs	Attorney-General's
Social Policy	Family, Community, Housing and Youth	Families, Housing, Community Services and Indigenous Affairs

NOTES

- 1 Membership to include a Chair or Deputy Chair from each of the remaining seven committees.
- 2 The Infrastructure and Population committee may also be responsible for the water component of the current Climate Change, Water, Environment and the Arts committee.

Committee conclusions

4.75 In light of the feedback received from Members, the Committee sees merit in reducing the number of general purpose standing committees. Table 4.3 shows that reducing the number of general purpose standing committees to eight would result in 67 fewer committee positions to be filled by Members of the House.⁵¹ In conjunction with the recommendations made earlier in this chapter, this would result in each Member serving on an average of 1.6 committees. The Committee considers this to be a good outcome.

51 Detailed calculations are contained in Appendix F.

- 4.76 The Committee did not receive specific proposals as to which committees should be retained, merged, or discontinued. However, in an effort to provide the House with a suggested structure for a new system of general purpose standing committees, it has carefully considered this issue and arrived at the structure set out in table 4.4. The Committee aimed to streamline the House committee system, reduce duplication, and group together complementary policy areas.
- 4.77 The Committee sees merit in the House having a set of broad standing committees, complemented by select committees to respond to topical or situational issues as they arise. Because of their necessarily broader areas of responsibility, these eight committees may be able to conduct more multi-faceted and thorough inquiries, as well as being better able to scrutinise government administration over an entire portfolio or a number of related portfolios. The relevant government departments may also derive administrative and other benefits from having one main House committee to work with.
- 4.78 Admittedly, the proposed committees would have sizeable areas of responsibility, which could theoretically affect the extent to which they are able to effectively carry out their scrutiny and investigative work. In practice, any such concerns could be addressed through the greater use of subcommittees. Indeed, subcommittees are regarded by some as a useful way to improve a committee's efficiency and ability to specialise and build expertise.⁵²

52 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, p. 6.

Recommendation 16

The Committee recommends that the number of general purpose standing committees be reduced to eight, comprising standing committees on:

- Aboriginal and Torres Strait Islander Affairs (membership comprising at least one Chair or Deputy Chair from each of the committees below);
- Economics and Industry;
- Education and Employment;
- Environment and the Arts;
- Health;
- Infrastructure and Population;
- Legal Affairs; and
- Social Policy.

Select committees

4.79 Select committees are usually appointed to respond to a particular, and perhaps short-term, need.⁵³ They tend to have a finite life, usually ceasing to exist once they have made their final report to the House. As noted in Chapter 1, the House does not often appoint select committees.⁵⁴

Committee conclusions

4.80 The Committee has not received specific evidence relating to the House's use of select committees. However, the above recommendation for fewer general purpose standing committees with broader areas of responsibility could revitalise the House's use of select committees. They could be used to respond to topical or situational issues, particularly where standing committees are fully occupied with longer term inquiries and activities.

4.81 Although the Committee does not wish to make any specific recommendation at this time, it urges the House to consider making more use of select committees to carry out specific inquiries, as the need arises.

53 *H.R. Practice*, p. 626.

54 See paragraph 1.13.

Joint committees

4.82 There are currently 14 joint committees on which Members may serve:

- seven statutory committees, established by an Act of Parliament:
 - ⇒ Australian Crime Commission;
 - ⇒ Australian Commission for Law Enforcement Integrity;
 - ⇒ Broadcasting of Parliamentary Proceedings;
 - ⇒ Corporations and Financial Services;
 - ⇒ Intelligence and Security;
 - ⇒ Public Accounts and Audit; and
 - ⇒ Public Works;⁵⁵
- six standing committees, established by a resolution of both houses of Parliament:
 - ⇒ Electoral Matters;
 - ⇒ Foreign Affairs, Defence and Trade;
 - ⇒ Migration;
 - ⇒ National Capital and External Territories;
 - ⇒ Parliamentary Library; and
 - ⇒ Treaties; and
- one select committee, on cyber-safety, established by a resolution of both houses of Parliament.

4.83 In its 1998 review of the committee system, the Procedure Committee recommended that three of the then 11 joint committees not be re-appointed.⁵⁶ The Committee's view at that time was that their work could be undertaken by other standing committees.

Committee conclusions

4.84 The Committee has not received any evidence specifically supporting a reduction in the number of joint committees, although any attempt to reduce the overall number of committees cannot neglect joint committees. The Committee notes a number of areas in which joint committees may

55 In addition, the Government has committed to establishing a statutory Parliamentary Joint Committee on Human Rights: Attorney-General, *Australia's Human Rights Framework*, Media release, 21 April 2010.

56 Electoral Matters; Migration; and the National Capital and External Territories.

benefit from review. For example, the functions of the Parliamentary Joint Committee on the Australian Committee for Law Enforcement Integrity and the Parliamentary Joint Committee on the Australian Crime Commission may be able to be carried out by one committee.⁵⁷ All joint committees should also be assessed to ensure their ongoing relevance, for example, the Joint Standing Committee on Migration (JSCOM)⁵⁸ and the Joint Committee on the Broadcasting of Parliamentary Proceedings.

- 4.85 It would be appropriate and timely for the Government to review the number and subject coverage of joint standing and joint statutory committees. The Committee notes, for example, that there are currently three committees concerned with communications.⁵⁹ Any committees that have out-lived their usefulness could be discontinued, either by not being re-established at the beginning of the 43rd Parliament in the case of standing committees, or through the appropriate legislative actions being taken for statutory committees.

Recommendation 17

The Committee recommends that the House of Representatives and Senate together undertake a review of the number and subject coverage of joint committees, with a view to reducing the number of committees, and take any legislative or other action necessary to effect such a reduction. The review should address, in particular, whether:

- **there is scope to combine the functions of the Parliamentary Joint Committee for Law Enforcement Integrity and the Parliamentary Joint Committee on the Australian Crime Commission; and**
- **for each current joint committee, there is a specific, ongoing need that cannot be satisfied by any other committee.**

57 The Parliamentary Joint Committee on Law Enforcement Bill 2010, before the Parliament as at 3 May 2010, would extend the powers of the Parliamentary Joint Committee on the Australian Crime Commission, and rename it the Parliamentary Joint Committee on Law Enforcement. It is unclear whether it is envisaged that the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity would also be merged with this new committee.

58 Particularly if the Committee's recommendation for a House Standing Committee on Infrastructure and Population is adopted.

59 They are: House of Representatives Standing Committee on Communications; Senate Standing Committee on Environment, Communications and the Arts; and Joint Select Committee on Cyber-Safety.

Domestic committees

4.86 The House has a number of committees dedicated to its internal matters:

- House;
- Petitions;
- Privileges and Members' Interests;
- Procedure; and
- Publications.⁶⁰

4.87 These 'domestic' committees deal with such matters as the practices and procedures of the House itself, such as the Procedure Committee. Such committees tend to have an internal focus, although they also consider the way the House relates to the community. Other domestic committees are involved in administrative matters. For example, the Publications Committee authorises government documents for wider distribution.

4.88 In other parliaments, there are domestic committees devoted to organising the business of the main chamber. For example, the Business Committee of the New Zealand Parliament determines the order of business in the chamber, the allocation of time to items of business, and the allocation of time to the various parties within a particular item of business.⁶¹ The Business Committee also determines the size and membership of other parliamentary committees. By contrast, in the House of Representatives, priorities for government business are determined by the government. Priorities for private Members' business and the presentation of committee and delegation reports are recommended by a meeting of the party Whips and Independent Members, and formally adopted by the House.

Committee conclusions

4.89 As with joint committees, the Committee has not received any evidence specifically relating to the number of domestic committees. However, it may be appropriate to revisit the number and subject coverage of domestic committees, with a view to ensuring that the committee system continues to appropriately meet the House's needs. The Committee

60 Standing orders 216, 218, 219, 220, 221.

61 New Zealand Parliament, *Business before the Business Committee*, viewed 18 December 2009, at: <http://www.parliament.nz/en-NZ/PB/SC/Details/Business/f/d/d/00DBHOH_BBSC_SCBU_1-Business-before-the-Business-Committee.htm>.

acknowledges that many domestic committees are administrative in nature and, as a proportion of the total time spent on committee work, do not constitute a major component of demands on Members' time. While suggesting that the House consider this matter during the 43rd Parliament, the Committee also considers that there would be benefits in having the work of the Publications Committee carried out by another domestic committee instead.

Recommendation 18

The Committee recommends that the role of the House of Representatives Standing Committee on Publications be added to the remit of the House of Representatives Standing Committee on Procedure.

Proposals for new committees

4.90 Some evidence suggested that the current subject coverage of the House committee system is inadequate. Proposals to remedy this involved either expanding the responsibilities of current committees, or establishing new ones. These are considered in this section, focusing on proposals to increase the House committee system's role in:

- human rights or civil liberties;
- Indigenous matters;
- women's affairs;
- reviewing Australia's Constitution; and
- setting the agenda for House business.⁶²

62 Other proposals for adjusting the subject coverage of committees, or establishing new ones, are considered earlier in this chapter and in Chapter 2.

Human rights and civil liberties

- 4.91 A number of submissions argued that the House should have a more significant role in promoting and protecting human rights and civil liberties in Australia, as well as monitoring human rights issues more generally.⁶³
- 4.92 The current human rights subcommittee of the JSCFADT has an understandably international focus. Nevertheless, it has inquired into asylum seekers and immigration detention centres in Australia, and the associated human rights implications.⁶⁴ Other committees may also monitor human rights issues when a relevant matter arises, or when considering bills or legislative proposals. For example, the JSCOM's inquiry into immigration detention in Australia touched on human rights matters.⁶⁵
- 4.93 Aside from the consideration of legislation in the Chamber and Main Committee, House committees do not systematically scrutinise legislation to ensure compliance with principles of human rights or civil liberties. Most submissions about human rights or civil liberties support the establishment of a House or joint committee that could:
- ensure bills and subordinate legislation are compatible with principles of human rights and civil liberties;
 - conduct inquiries into human rights issues; and
 - monitor the implementation of international human rights instruments.⁶⁶

63 Professor G. Williams, *Submission No. 1*; Australian Lawyers for Human Rights, *Submission No. 3*; Human Rights Law Resource Centre, *Submission No. 5*; Civil Liberties Australia, *Submission No. 9*; Mr E. Santow, *Submission No. 10*; Public Interest Law Clearing House Inc., *Submission No. 15*.

64 For example: Joint Standing Committee on Foreign Affairs, Defence and Trade, *Bosnia: Australia's response*, January 1996, viewed 30 April 2010, at: <http://www.aph.gov.au/house/committee/jfadt/Bosnia/Bos_indx.htm>; Joint Standing Committee on Foreign Affairs, Defence and Trade, *Visits to immigration detention centres*, June 2001, viewed 4 August 2009, at: <<http://www.aph.gov.au/house/committee/jfadt/IDCVisits/IDCindex.htm>>.

65 See inquiry website, viewed 15 March 2010, at: <<http://www.aph.gov.au/house/committee/mig/detention/index.htm>>.

66 The establishment of such a committee may necessitate other changes being made to the way the House considers legislation. For example, it may become necessary for a 'statement of compatibility' or 'human rights impact statement' to be presented when a bill is introduced. Professor G. Williams, *Submission No. 1*, p. 1; Australian Lawyers for Human Rights, *Submission No. 3*, pp. 4-6; Human Rights Law Resource Centre, *Submission No. 5*, p. 5; Civil

Committee conclusions

4.94 The Committee notes that the National Human Rights Consultation Committee released its report in September 2009.⁶⁷ The report contained a number of recommendations that relate to human rights in policy and legislation, one of which being the establishment of a human rights committee of the Parliament. In response, the Attorney-General launched Australia's Human Rights Framework on 21 April 2010, which included a commitment to establishing a Parliamentary Joint Committee on Human Rights.⁶⁸ Therefore, no recommendation from the Procedure Committee is required.

Indigenous audit

4.95 Australian Lawyers for Human Rights (ALHR) advocate the establishment of an Indigenous audit committee, comprised of Indigenous Australians, to examine the impact of relevant portfolio estimates on Indigenous people.⁶⁹

Committee conclusions

4.96 Given the historically low number of Indigenous Members of the House⁷⁰, it is unclear from where members of this committee would be drawn. If a membership of non-parliamentarians is envisaged, the House would not be an appropriate forum for such a committee.

4.97 The specialist function envisaged by ALHR could be carried out by the ATSI Committee, which may also consult with Indigenous Australians outside the Parliament. The impact of the budget on Indigenous Australians can also currently be considered by Members during the consideration of budget bills in the Chamber. Moreover, the structure of the ATSI Committee proposed in this report includes a representative from each of the other general purpose standing committees.⁷¹ This would give the ATSI Committee a greatly improved oversight capacity and

Liberties Australia, *Submission No. 9*, p. 3; Mr E. Santow, *Submission No. 10*, pp. 1–2; Public Interest Law Clearing House Inc., *Submission No. 15*, pp. 5–6.

67 National Human Rights Consultation Committee, *National Human Rights Consultation Report*, Commonwealth of Australia, Canberra, September 2009. Available online at: <<http://www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf/Page/Report>>.

68 Attorney-General, *Australia's Human Rights Framework*, Media release, 21 April 2010. The Human Rights (Parliamentary Scrutiny) Bill 2010 and the Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010 were introduced into the House on 2 June 2010.

69 Australian Lawyers for Human Rights, *Submission No. 3*, p. 6.

70 An issue in its own right, but outside the scope of the present inquiry.

71 See recommendation 16.

greater ability to communicate Indigenous matters to committees covering all policy areas. For these reasons, and in the absence of any other evidence favouring the proposal, the Committee does not support the establishment of an Indigenous audit committee at this time.

Gender equality

4.98 ALHR also advocates the establishment of a Women's Audit Committee or Standing Committee on Women's Affairs:

Australia lacks the kind of parliamentary committees that have responsibility for gender equality matters in European and many other parliaments.⁷²

Committee conclusions

4.99 There has been a shift towards gender mainstreaming within the Australian public sector over recent years, and internationally since the 1990s.⁷³ All parliamentary committees have a responsibility for considering issues of gender equality within their particular policy areas.⁷⁴ Therefore, the Committee does not support the ALHR's proposal at this time.

Constitutional review

4.100 Professor Geoffrey Lindell's submission supports the establishment of a joint committee responsible for continuously and regularly reviewing the operation of Australia's Constitution.⁷⁵ In his address to the seminar commemorating the 20th anniversary of the House committee system, Professor Lindell acknowledged that the LACA Committees of the House and Senate have produced useful reports on constitutional matters, albeit on a somewhat *ad hoc* basis.⁷⁶

72 Australian Lawyers for Human Rights, *Submission No. 3*, p. 6.

73 The United Nations has adopted the strategy of gender mainstreaming, and has a number of relevant publications available on its website. See: United Nations, *WomenWatch: Directory of UN Resources on Gender Equality and Empowerment of Women*, viewed 4 August 2009, at: <http://www.un.org/womenwatch/directory/gender_mainstreaming_10314.htm>.

74 For example, the the 42nd Parliament, the Standing Committee on Employment and Workplace Relations has carried out an inquiry into the gender-related issue of pay equity.

75 Professor G. J. Lindell, *Submission No. 4*, pp. 2-3.

76 Professor G. J. Lindell, *Exhibit No. 3*, pp. 3-4.

Committee conclusions

- 4.101 The House LACA Committee is well-placed to monitor the operation of the Constitution.⁷⁷ Professor Lindell's preference for a joint committee⁷⁸ could be satisfied, in part, by the existing House and Senate committees undertaking some joint activities, where practicable.
- 4.102 The current mechanisms available in the House to consider constitutional matters are sufficient, although perhaps not utilised as frequently as some might prefer. The operation of the LACA Committee could be strengthened if it is given the power to initiate its own inquiries.⁷⁹
- 4.103 The changes in committees' powers and operations identified in Chapter 5 have the capacity to improve the Parliament's role in regularly reviewing Australia's Constitution, and to a greater extent than the establishment of a new joint committee. The Committee, therefore, does not support Professor Lindell's proposal at this time.

Setting the agenda

- 4.104 The House's agenda and program of business are set in a number of different ways, depending on the type of business being conducted:
- during periods of **government business**, the Government determines its priorities and often negotiates timeframes for the passage of legislation with the Opposition;
 - the programming of business during the Monday periods for **committee and delegation reports and private Members' business** is negotiated between party Whips, who then make a recommendation to the House; and
 - the standing and sessional orders inform the content and timing of **House business** periods, including Question Time, the discussion of the Matter of Public Importance and ministerial statements.

77 Some of the constitutional inquiries the LACA Committee has conducted include those into: the machinery of referendums (2009); constitutional reform (2008); section 44 of the Constitution (1997); and constitutional change (1997). For a full list of inquiries, see the committee's website, viewed 3 February 2010, at: <http://www.aph.gov.au/house/committee/laca/reports.htm>.

78 Professor G. J. Lindell, *Exhibit No. 3*, p. 4.

79 The power of committees to initiate their own inquiries is discussed further in Chapter 5.

- 4.105 In addition to these mechanisms, a flexible approach is often taken to the arrangement of business, ensuring that the House's needs are met. For example, committee reports are often presented and statements made during periods of government business, particularly where a committee has a pressing deadline to meet. Often, statements are made during periods of House business, usually with prior consultation with the Leader of the House and with leave granted to allow slight departures from the requirements of the standing and sessional orders. Both sides of the Chamber generally work cooperatively to ensure that the scheduling of business 'suits the convenience of the House'.
- 4.106 Mr Rozzoli submits that debates on committee reports do not take place in the House as often as they should.⁸⁰ He suggests that this could be overcome by establishing a 'non-partisan agenda committee':
- ... if the House, in the best of all possible worlds, was able to determine for itself, through a non-partisan agenda committee, the business it wished to consider and the time to be allocated to that business ... debate on committee reports might command the higher priority they deserve.⁸¹

Committee conclusions

- 4.107 Firstly, the Committee does not accept that committee reports are given inadequate consideration in the House. The Monday evening timeslots specifically set aside for committee and delegation reports in the Chamber and Main Committee ensure that reports feature regularly on the House's program of business. The introduction of a private Members' business Friday⁸² proved to be unachievable. Moreover, as noted above, committee reports are often presented outside those timeslots. So far in the 42nd Parliament, 85 committee and delegation reports (51 per cent) have been presented during government business time in the Chamber, with leave granted for statements to be made in association with 49 (58 per cent) of those.⁸³ 38 reports have been debated outside the Monday evening timeslots (81 per cent of all debates on committee and delegation reports).⁸⁴

80 The Hon. K. Rozzoli AM, *Submission No. 2*, p. 7.

81 The Hon. K. Rozzoli AM, *Submission No. 2*, p. 7.

82 House of Representatives, *Notice Paper No. 7*, 42nd Parliament, 22 February 2008.

83 Chamber Research Office statistics, as at 17 February 2010.

84 Chamber Research Office statistics, as at 17 February 2010.

- 4.108 Secondly, the Committee supports the government of the day having control over its agenda during periods of government business in the House. Some of the prerogatives of executive government need to be acknowledged, the ability to progress consideration of its legislative agenda being one of them.
- 4.109 Finally, the Committee considers that there is an adequately bipartisan approach to the scheduling of business in the House, particularly during periods for committee and delegation reports and private Members' business. Although the Government ultimately has control over priorities for government business, the Committee believes that current informal consultation channels are adequate, and has not received any evidence to the contrary.
- 4.110 The Committee accepts that more could be done to improve the profile of committee work in the House, and discusses this in Chapter 7. On balance, however, it does not consider that establishing an Agenda Committee would be a workable response.

