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The Parliament of the Commonwealth of Australia

# **Building a modern committee system**

**An inquiry into the effectiveness of the House committee system**

**House of Representatives  
Standing Committee on Procedure**

June 2010  
Canberra

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## Foreword

The current system of House and joint committees has been operating since 1987. Apart from some significant reforms in 1998, changes to its structure and operation since that time have been largely incremental. This may be because the committee system has continued, in large measure, to meet the House's needs. Nevertheless, Members' and the public's changing expectations have meant that the pressure for reform has been building over recent years.

For example, relatively recent developments in information and communication technology present opportunities for committees to change the way they do their work, including how they conduct inquiries and engage with the community. The range of demands on Members has also evolved, partly because of technological developments, and partly due to the public's changing expectations of Members and the Parliament as a whole. This inquiry into the effectiveness of the House committee system is therefore timely.

Throughout this inquiry, the Committee has looked at ways to make the House committee system more workable and responsive to the needs of the community and of the Parliament. It has considered the structure of the committee system, the powers of committees, and the types of work committees do. The Committee has been keen to improve the role of committees as the interface between the Parliament and the public. A range of structural factors were also considered, including ensuring that committees are properly resourced and appropriately integrated into the structures of the Parliament to carry out their vitally important work.

The Committee's inquiry has confirmed that House committees in particular deliver valuable outcomes to the Australian public by facilitating cross-party cooperation and constructive policy and scrutiny work. The bipartisan nature of House committee work was exemplified by the present inquiry, and I take this opportunity to thank the members of the Procedure Committee for the thoughtful and collaborative approach they each took to contributing to the inquiry.

The Committee held two roundtable discussions with committee Chairs and Deputy Chairs. These were well-attended and very productive forums, and displayed the high regard Members have for their committee work and the benefits to the community. I similarly take this opportunity to thank my colleagues for their valuable input to the inquiry.

In its report, the Committee has recommended a suite of complementary measures designed to strengthen the system of committees in the House of Representatives. Most of these recommendations suggest incremental change, which, in the past, has been the most effective means of bringing about practical improvements.

The Committee is optimistic that its timely review can effect as much change as the 1998 review, which was instrumental in improving the workability of the House committee system – for the Australian public as well as for the Parliament itself. The Committee is confident that its report will be accepted with the same spirit of cooperation in which the inquiry was conducted.

**Julie Owens MP**  
**Chair**





## **Membership of the Committee**

**Chair** Ms Julie Owens MP

**Deputy Chair** The Hon. Alex Somlyay MP

**Members** Ms Sharon Bird MP The Hon. Roger Price MP  
Ms Jennie George MP Dr Mal Washer MP  
The Hon. David Hawker MP

## **Committee Secretariat**

**Secretary** Ms Catherine Cornish

**Inquiry Secretary** Ms Peggy Danaee

**Research Officers** Mrs Anna Gadzinski  
Ms Penelope Branson

## **Contact details**

**Postal** PO Box 6021, Parliament House, Canberra ACT 2600

**Phone** 02 6277 4672

**Email** [procedure.committee.reps@aph.gov.au](mailto:procedure.committee.reps@aph.gov.au)

**Website** [www.aph.gov.au/proc](http://www.aph.gov.au/proc)



# **Terms of reference**

## **Committee terms of reference**

To inquire into and report on the practices and procedures of the House and its committees.

## **Inquiry terms of reference**

To investigate and report on the effectiveness of House of Representatives domestic and general purpose standing committees including:

- (a) the number, subject coverage, membership and means of appointment of committees;
- (b) the type of work being undertaken by committees;
- (c) the appropriateness of current Standing and Sessional Orders;
- (d) the powers and operations of committees; and
- (e) factors influencing the effectiveness of House committees, including resources and structural issues.



## List of abbreviations

ALHR	Australian Lawyers for Human Rights
A-PAC	Australia's Public Affairs Channel
ATSIA	Aboriginal and Torres Strait Islander Affairs
DHR	Department of the House of Representatives
JCPAA	Joint Committee of Public Accounts and Audit
JSCOM	Joint Standing Committee on Migration
JSCOT	Joint Standing Committee on Treaties
JSCFADT	Joint Standing Committee on Foreign Affairs, Defence and Trade
LACA	Legal and Constitutional Affairs
UK	United Kingdom



## Reference guide

Chamber Research Office statistics	Statistics provided by the Chamber Research Office of the Department of the House of Representatives
H.R. Deb.	House of Representatives Debates (Hansard). References are to date and page.
<i>H.R. Practice</i>	Harris, I. C. (ed), <i>House of Representatives Practice</i> , 5th edition, Department of the House of Representatives, Canberra, 2005.
<i>House committee procedures</i>	Standing Committee on Procedure, <i>Procedures relating to House committees</i> , November 2005.
<i>It's your House</i>	Standing Committee on Procedure, <i>It's your House: Community involvement in the procedures and practices of the House of Representatives and its committees</i> , October 1999.
<i>Making a difference</i>	Standing Committee on Procedure, <i>Making a difference – Petitioning the House of Representatives</i> , August 2007.
<i>Media coverage</i>	Standing Committee on Procedure, <i>Media coverage of House proceedings – Including the Chamber, Main Committee and committees</i> , Final report, May 2005.
<i>Nursing mothers</i>	Standing Committee on Procedure, <i>Options for nursing mothers</i> , June 2007.
<i>Promoting community involvement</i>	Standing Committee on Procedure, <i>Promoting community involvement in the work of committees – Conference of committee chairs, deputy chairs and secretaries</i> , 6 March 2001, May 2001.

- Sessional order 344* Standing Committee on Procedure, *Sessional order 344*, June 2003.
- Ten years on* Standing Committee on Procedure, *Ten years on – A review of the House of Representatives committee system*, May 1998.
- VP Votes and Proceedings of the House of Representatives from 1901 to present. Contained in bound volumes and indexed by session. References are to sessional volume/page, e.g. VP 2002-04/1085.



# List of recommendations

## 2 Resourcing for committees

### Recommendation 1

The Committee recommends that:

- the Leader of the House act to establish a bipartisan House Committee on Appropriations and Staffing, chaired by the Speaker, to make recommendations to the House on:
  - ⇒ estimates of the funding required for the operation of the Department of the House of Representatives; such estimates, once agreed by the House, are to be conveyed by the Speaker to the Minister for Finance and Deregulation;
  - ⇒ proposals for changes to the administrative structure of, or service provision by, the Department of the House of Representatives;
  - ⇒ administration and funding of security measures affecting the House; and
  - ⇒ any other matters of finance or services referred to it by the Speaker or the House; and
- the Liaison Committee of Chairs and Deputy Chairs have a more active role in monitoring the resources available to committees, with the Chair to report to the House Committee on Appropriations and Staffing on committee activities and resource levels.

**Recommendation 2**

The Committee recommends that:

- prior to the commencement of the 43rd Parliament, the Speaker arrange for an external review of staffing levels within the Department of the House of Representatives Committee Office, incorporating a work analysis to determine the nature and level of secretariat support necessary for the ongoing and inquiry work of committees, to ensure that the House committee system is supported by an adequate number of appropriately qualified staff;
- the ongoing funding for committees supported by the Department of the House of Representatives be restored to pre-1995–96 levels, in real terms; and
- the Department of the House of Representatives and the Department of Finance and Deregulation undertake negotiations to establish a sound basis for funding the work of committees supported by the Department of the House of Representatives, that provides greater certainty and is more responsive to the House’s needs, with a view to a new system being implemented in time for the 2011–12 budget process.

**Recommendation 3**

The Committee recommends that the Speaker develop options for providing induction to Members on their roles as committee members, Chairs and Deputy Chairs. Such induction should include information on roles and responsibilities, powers, communication and committee resources. These initiatives should be in place for the commencement of the 43rd Parliament.

**3 Committees: Participatory democracy****Recommendation 4**

The Committee recommends that the phrase ‘resolve to’ be omitted from standing order 235(b).

### **Recommendation 5**

The Committee recommends that the Speaker arrange for:

- an investigation of the adequacy of teleconferencing and videoconferencing facilities available to committees; and
- consideration of any upgrades or additional facilities required to meet current and anticipated future demand from committees.

### **Recommendation 6**

The Committee recommends that the House, through a motion introduced by the Leader of the House, adopt guidelines for committees' interactions with witnesses, in the terms contained in Appendix E of this report.

### **Recommendation 7**

The Committee recommends that the standing orders be amended to provide for committee Chairs to make short statements during private Members' business time, informing the House of new inquiries being undertaken by the committee. The standing orders should also provide for the whips to allocate the time for each such statement.

### **Recommendation 8**

The Committee recommends that the Speaker investigate the adequacy of the infrastructure available for audiovisual recording and broadcasting committee proceedings within Parliament House and for the development of low cost audio-visual recording of interstate public hearings.

### **Recommendation 9**

The Committee recommends that the Liaison Committee of Chairs and Deputy Chairs broaden its role to include advising Chairs and Deputy Chairs of emerging technologies that may be used in the conduct of committee inquiries, and any issues that committees may encounter in seeking to make use of these technologies. The Liaison Committee might include new technologies as a standing agenda item, to enable monitoring and advice to be provided on emerging technologies.



## 4 Structure of the House committee system

### 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.

### 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.

### 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.

**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.

**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.

**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.

**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.

**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.

**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.

## **5 Powers and operations**

### **Recommendation 19**

The Committee recommends that general purpose standing committees be given the power to initiate their own inquiries, and that any disputes between committees over policy coverage continue to be resolved by the Speaker.

### **Recommendation 20**

The Committee recommends that standing order 238 be amended to read:

238      Conferring with Senate committees

A committee may confer with a similar committee of the Senate to discuss relevant issues, receive briefings or gather evidence to an inquiry.

### **Recommendation 21**

The Committee recommends that standing order 237 be amended as follows:

237      Use of records of previous committees

A committee or a subcommittee may consider and make use of the evidence and records of similar committees appointed during previous Parliaments. A committee may, with the prior consent of the Speaker, alter the status of such evidence and records.

## **6 The various types of committee work**

### **Recommendation 22**

The Committee recommends that the Government consider increasing references to House committees for inquiry and report in areas such as:

- bills and pre-legislation proposals, including draft bills, green papers, white papers and other investigative inquiries; and
- post-legislation issues, including delegated legislation and matters relevant to policy implementation.

### **Recommendation 23**

The Committee recommends that the standing and sessional orders be amended to give the Standing Committee on Petitions the power to refer petitions to the relevant House committee, which may then choose to inquire into a petition referred to it and report to the House.

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## 7 Outcomes of committee work

### Recommendation 24

The Committee recommends that:

- the standing orders be amended to provide for:
  - ⇒ a period of committee and delegation business and private Members' business to be given priority in the Chamber on Mondays from 10 a.m. to 12 noon, beginning with Petitions Committee report and statement(s) for 10 minutes;
  - ⇒ the Main Committee to regularly meet on Mondays from 10.30 a.m. to 1.30 p.m., commencing with a 30 minute period of three minute constituency statements as provided by standing order 193, followed by committee and delegation reports and private Members' business being given priority;
  - ⇒ quorums and divisions called during the period of committee and delegation business and private Members' business being deferred until the conclusion of Question Time;
  - ⇒ 90 second statements to take place in the Chamber from 1.45 p.m. on Mondays, instead of in the Main Committee; and
  - ⇒ the adjournment to be proposed at 8.30 p.m. on Mondays, and the House adjourning at 9 p.m.;
- the whips:
  - ⇒ continue to recommend the order of consideration of matters and the times allocated for each item and for each Member speaking during periods of committee and delegation reports and private Members' business in the Chamber on Mondays, in line with the provisions of standing order 41A; and
  - ⇒ consider allocating time for the presentation of committee and delegation reports such that a short time be provided in the Chamber for presentation and referral of the report to the Main Committee, with statements and debate taking place as soon as practicable in the Main Committee; and
- the impact of changes be reviewed by the Procedure Committee as soon as practicable after six months of implementation.

### **Recommendation 25**

The Committee recommends that:

- the standing orders be amended to require that, within three months of a House or joint committee report being presented in the House, a government response be tabled in the House and, if no such response has been received within four months of such a report being presented in the House, to allow a permanent member of the committee, at the conclusion of Question Time, to ask the Speaker to write to the Minister concerned, seeking reasons for the delay in responding;
- Ministers inform the relevant committee Chair immediately a government response is presented in the House;
- the Speaker present his schedule of outstanding responses to committee reports at least three times a year; and
- through the Liaison Committee of Chairs and Deputy Chairs, Members be reminded of a committee's power, under standing order 249, to invite a Minister to appear before it.

## Introduction

- 1.1 Since the 1920s, the Parliament has appointed committees to investigate and report on various issues. Both the House of Representatives and the Senate established their own committees as the necessity arose.<sup>1</sup> From time to time, joint committees of both houses were also appointed, either by resolution or by legislation.<sup>2</sup>
- 1.2 In the 1970s, following a rapid increase in committee activity, there was a growing concern that these *ad hoc* committee systems were not as effective as they could be:
- Committees have proliferated but there has been little concern with their integration into the parliamentary system. In 1975 there were 44 parliamentary committees. Even 44 committees gave the Parliament only a token capacity to scrutinise governmental activity and administration.<sup>3</sup>
- 1.3 A joint committee was therefore established in 1974 to inquire into and make recommendations for a balanced system of parliamentary committees, the integration of the committee system into the procedures of the Parliament, and the most suitable arrangements for committee meetings.<sup>4</sup> The Joint Committee on the Parliamentary Committee System

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1 For example, House standing committees on: Environment and Conservation; Aboriginal Affairs; Expenditure; and Road Safety; and House Select Committee on Voting Rights of Aborigines.

2 For example, joint standing committees on: Prices; and New and Permanent Parliament House; and joint select committees on: Northern Territory; and Family Law.

3 Joint Committee on the Parliamentary Committee System, *A new parliamentary committee system*, Australian Government Publishing Service, Canberra, 1976, p. 1. The recommendations of this report are listed at Appendix A.

4 Resolutions of appointment: Senate, *Journals*, No. 17, 17 September 1974, and No. 12, 18 March 1976; and House of Representatives, *Votes and Proceedings*, No. 5, 17 July 1974, and No. 11, 17 March 1976.

conducted its inquiry over two Parliaments<sup>5</sup>, presenting its final report on 26 May 1976 in both the House and the Senate.

- 1.4 Despite the recommendations contained in the report, committees continued to be established on an *ad hoc* basis for the next 10 years. In September 1987, the House committee system was restructured to provide a comprehensive series of general purpose standing committees to enable the House to monitor all government departments and agencies.
- 1.5 In 1998, the Procedure Committee conducted a review of the operation of the committee system in the decade since its establishment.<sup>6</sup> As a result, the following reforms were made to the House committee system:
- a reduction in the number of positions on general purpose standing committees;
  - a greater role for general purpose standing committees in examining audit reports;
  - changes to the scheduling of committee business in the Chamber and Main Committee;
  - changes to the process for appointing Members to committees; and
  - committees having more flexibility in their use of electronic communication devices.
- 1.6 The present inquiry into the effectiveness of the House committee system is timely. To date, the House committee system has been operating for over 20 years in its present form, albeit with considerable reforms in 1998 and other minor adjustments. Over time, the committee system has evolved, establishing an identity of its own. It has been characterised by a spirit of bipartisanship, and a cooperative approach to committee work. House committees have developed a significant role in contributing to an effective Australian Parliament. Nevertheless, there is still room for improvement.
- 1.7 This chapter provides a brief account of the House of Representatives system of committees: its present structure; and how it contributes to the effectiveness of the Australian Parliament. It also describes the present inquiry into the effectiveness of the House committee system, and outlines its conduct and scope.

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5 29th and 30th Parliaments.

6 *Ten years on*. Recommendations and government responses to them are summarised at Appendix B.



- 1.8 At the end of this chapter, readers are given some guidance on the structure of this report. Briefly, however, the remainder of the report consists of six chapters:
- Chapter 2: resources for committee work;
  - Chapter 3: participatory democracy;
  - Chapter 4: the structure of the committee system;
  - Chapter 5: powers and operations;
  - Chapter 6: different types of committee work; and
  - Chapter 7: outcomes of committee work.

## The House committee system today

- 1.9 Since the 1998 review and the reforms that resulted from it, the House committee system has continued to operate with little change to its structure.<sup>7</sup> There are currently 30 ongoing committees on which Members of the House of Representatives may serve (listed in table 1.1).<sup>8</sup> Broadly speaking, there are four types of committees on which Members may serve:
- House general purpose standing committees;
  - House domestic committees;
  - Joint standing or statutory committees; and
  - House or joint select committees.
- 1.10 When the current House committee system was established in 1987, there were eight **general purpose standing committees**. This number has varied over the years: a peak of 13 was reached in the 40th Parliament, and there are currently 12.<sup>9</sup> In comparison, the Senate has eight paired general purpose references and legislation committees.<sup>10</sup> Much like those of the United Kingdom (UK) and Canadian Houses of Commons and the

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7 The number and subject coverage of House and joint committees have, however, changed over time to respond to changes in administrative arrangements in the public service and emerging areas of policy focus.

8 In addition, Members also serve on the Joint Select Committee on Cyber-Safety.

9 Department of the House of Representatives, *Submission No. 6*, p. 5. For further information about the formation of the House committee system, see also: *Ten years on*.

10 These are (as at 28 April 2010): Community Affairs; Economics; Education, Employment and Workplace Relations; Environment, Communications and the Arts; Finance and Public Administration; Foreign Affairs, Defence and Trade; Legal and Constitutional Affairs; and Rural and Regional Affairs and Transport.

parliaments of New Zealand and Scotland, the House's committee system generally reflects the structure of ministerial portfolios.<sup>11</sup>

**Table 1.1 Committees on which Members may serve**

House committees		Joint committees	
<i>General purpose standing committees<sup>a</sup></i>	<i>Domestic committees<sup>b</sup></i>	<i>Statutory<sup>c</sup></i>	<i>Standing<sup>d</sup></i>
Aboriginal and Torres Islander Affairs	House	Australian Crime Commission <sup>e</sup>	Electoral Matters
Climate Change, Water, Environment and the Arts	Petitions	Australian Commission for Law Enforcement Integrity <sup>e</sup>	Foreign Affairs, Defence and Trade
Communications	Privileges and Members' Interests	Broadcasting of Parliamentary Proceedings	Migration
Economics	Procedure	Corporations and Financial Services <sup>e</sup>	National Capital and External Territories
Education and Training	Publications	Intelligence and Security	Parliamentary Library <sup>f</sup>
Employment and Workplace Relations		Public Accounts and Audit	Treaties
Family, Community, Housing and Youth		Public Works	
Health and Ageing			
Industry, Science and Innovation			
Infrastructure, Transport, Regional Development and Local Government			
Legal and Constitutional Affairs			
Primary Industries and Resources			

**NOTES**

- a General purpose standing committees are established by standing order 215.  
 b Domestic committees are established by standing orders 216 and 218–21.  
 c Joint statutory committees are established by Act of Parliament.  
 d Joint standing committees are established by resolution of both houses of Parliament.  
 e Supported by the Department of the Senate.  
 f Supported by the Parliamentary Library.

1.11 **Domestic or internal committees** are concerned with the powers and procedures of the House or the administration of the Parliament.<sup>12</sup> There are currently five of these. Some meet regularly with their Senate counterpart when considering matters relevant to both houses of Parliament.<sup>13</sup>

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

12 *H.R. Practice*, p. 622.

13 These include: the Publications Committee; and the Library Committee, prior to the establishment of the Joint Standing Committee on the Parliamentary Library.

- 1.12 **Joint committees** are ‘creatures of both houses’ and comprise both Members and Senators.<sup>14</sup> The number of joint committees has increased over the years.<sup>15</sup> There are currently 14: seven statutory; six standing committees reappointed each Parliament; and one select.<sup>16</sup>
- 1.13 **Select committees** are appointed by resolution, as the need arises. They often have a limited life, which is defined in the resolution of appointment. Select committees, whether House or joint, are often established to meet a particular and perhaps short-term need.<sup>17</sup> Select committees are not often used by the House, although at the time of writing, one joint select committee has been appointed.<sup>18</sup>

## Why do we need parliamentary committees?

- 1.14 Committee work is a significant part of the work of the House. As figure 1.1 shows, the time dedicated by Members to their committee activities – including private meetings and public hearings, but not including time spent travelling – exceeds Chamber and Main Committee hours combined.<sup>19</sup> This is especially pronounced in non-election years.<sup>20</sup>
- 1.15 On average, in each of the years between 2003–04 and 2008–09, 1,179 hours were spent on 676 committee meetings, compared with 764 hours spent in the Chamber and Main Committee combined.
- 1.16 Given that so much time is spent on committee meetings – not to mention the hours spent travelling, preparing for meetings, and drafting reports – in this section, the Committee considers what benefits parliamentary committees deliver in return for this investment.<sup>21</sup>

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14 *H.R. Practice*, p. 627.

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

16 Joint statutory committees are established by Act of Parliament; Joint standing and select committees are established by resolution passed by both the House and the Senate.

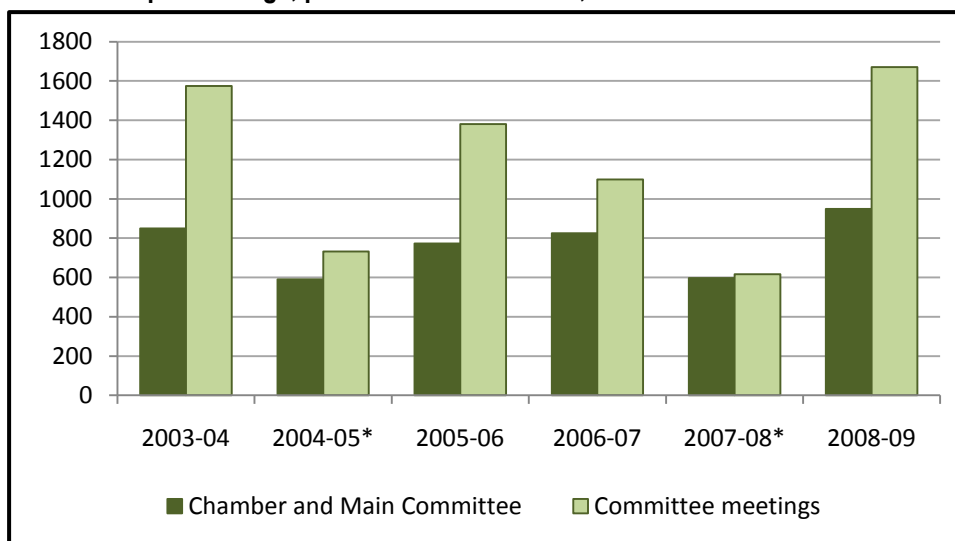
17 *H.R. Practice*, p. 626.

18 Joint Select Committee on Cyber-safety. House of Representatives *Votes and Proceedings*, 25 February 2010; Senate *Journals*, 11 March 2010.

19 Committee figures in figure 1.1 include meetings of joint committees on which Members serve.

20 Years that appear with an asterisk (\*) denote years in which a general election took place.

21 The Committee does not attempt to provide a comprehensive account of the House committee system. There are other excellent sources of information available for this purpose, such as *House of Representatives Practice*. (See the Reference Guide at the front of this report for further details.) Instead, this section discusses some of the structures and practices relevant to the present inquiry.

**Figure 1.1 Hours of proceedings, plenum and committees, 2003–04 to 2008–09**

Source Department of the House of Representatives annual reports<sup>22</sup>

## A different way of doing business

1.17 To understand why committees are necessary in a parliamentary system, it can be helpful to consider how they are different from the plenum. *House of Representatives Practice* acknowledges that ‘the principal purpose of parliamentary committees is to perform functions which the Houses themselves are not well fitted to perform ...’<sup>23</sup> These functions include: investigating a case or issue, including matters associated with government policy or administration; considering evidence and examining witnesses; and drawing up reasoned conclusions.<sup>24</sup>

1.18 This view is consistent with that expressed by a previous Clerk of the House of Representatives, who drew on these comments made by the Chair of the Standing Committee on Expenditure in 1979:

The floor of the House is not suitable for examining those specialised or detailed matters which are the day-to-day realities of modern government. Questions of public policy are too technical, too complex and sometimes too quantitative for anything other than careful consideration and analysis.<sup>25</sup>

22 Department of the House of Representatives annual reports: 2003–04, pp. 146–7; 2004–05, pp. 85–6; 2005–06, pp. 75–6; 2006–07, pp. 66–7; 2007–08, pp. 68–9; 2008–09, p. 73. Figures exclude suspensions in the Chamber and Main Committee, and are rounded to the nearest hour. Asterisks indicate periods in which an election took place.

23 *H.R. Practice*, p. 621. This point was also made in earlier editions of *House of Representatives Practice*.

24 *H.R. Practice*, p. 621.

25 The Hon. K. M. Cairns, Public Service Executive Development Seminar, 1 June 1979, cited in A. R. Browning, *Development of a committee system*, House of Representatives, Canberra, 1987.

1.19 This ‘careful consideration and analysis’ of public policy can therefore ideally be carried out by parliamentary committees. In part, this is because of the additional time and resources available to committees relative to the main chamber.<sup>26</sup> The main chamber is able to delegate some of its work to parliamentary committees, thereby improving the efficiency of the parliament. The particular powers available to committees – including the power to call and examine witnesses, and to work outside the parliament building – also assist.

1.20 Another factor that contributes to the special nature of committee work is the tendency for committees to operate across party lines, which can contrast with more adversarial proceedings in the main chamber. A number of authors note that House committees usually adopt a consensus approach, with members from across the political spectrum working together to achieve effective outcomes.<sup>27</sup> Furthermore, compared with more adversarial committee systems, House committees:

... are usually more productive and bring about effective change in governmental policy on issues of great importance to the Australian public.<sup>28</sup>

1.21 Committees and those who work with them – including witnesses – are at times frustrated by the lack of attention that some significant House committee inquiries gain in the popular media. Nevertheless, one analyst notes that the absence of constant media interest can facilitate bipartisan cooperation:

Parliamentary committees consider important policy issues away from close media attention and the glare of the parliamentary spotlight, where political parties are compelled to follow the traditional protagonist–antagonist plot, and consequently when there is little time for reasoned debate and discussion.<sup>29</sup>

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26 I Holland, ‘Parliamentary committees as an arena for policy work’ in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 79. And see figure 1.1.

27 D Beetham, *Parliament and democracy in the twenty-first century: A guide to good practice*, Inter-Parliamentary Union, Geneva, 2006, p. 29; M Rodrigues, ‘Parliamentary inquiries as a form of policy evaluation’, *Australasian Parliamentary Review*, vol. 23, no. 1, pp. 36–7.

28 D Beetham, *Parliament and democracy in the twenty-first century: A guide to good practice*, Inter-Parliamentary Union, Geneva, 2006, p. 29.

29 I Holland, ‘Parliamentary committees as an arena for policy work’ in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 79.

## The various roles of the committee system

1.22 Different committee systems tend to focus on different aspects of their functions, depending on the historical context in which they exist. The scrutiny and investigative functions may receive the most attention.<sup>30</sup> As this section shows, however, these are not their only contributions. The main roles of committees addressed in this section are:

- investigating matters of public policy;
- scrutiny and oversight;
- bridging the gap between Parliament and the public; and
- flow-on benefits for Members and their constituents.

### Investigating policy alternatives

1.23 Consistent with the prerogatives of the executive, governments set and implement public policy. While the Parliament has some capacity to influence policy by proposing amendments to government legislation, this approach is more successful in chambers where the government does not hold a clear majority, as in the Senate. Therefore, committees provide an alternative, and perhaps more effective, mechanism for giving the Parliament – and, through it, the community – some influence over policy issues.

1.24 One of the principal purposes of the House committee system is to investigate matters of public policy. Sometimes, these investigations relate to assessing and improving existing government programs. At other times, committees are charged with taking a broad-ranging approach to an area of emerging interest or need, shaping public policy early in the policy development cycle. This gives House committees a significant policy investigation role, despite the relatively high profile attached to some other committee activities:

The relentless probing in search of government maladministration that has become such a feature of the regular estimates hearings may get the most headlines, but parliamentary committees have more subtle and profound effects on the policy environment.<sup>31</sup>

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30 See, for example: D Stone, *Policy paradox: The art of political decision making*, Norton, New York, 2003; M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, p. 36; J Uhr, *Parliamentary committees: What are appropriate performance standards?*, Constitutional Centenary Foundation, Canberra, 1993.

31 I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 75.

**Table 1.2 A selection of policy inquiries conducted by House committees, 42nd Parliament**

<b>General purpose standing committee</b>	<b>Inquiry</b>
Aboriginal and Torres Strait Islander Affairs	Developing Indigenous enterprises Remote Aboriginal and Torres Strait community stores The high level of involvement of Indigenous juveniles and young adults in the criminal justice system
Climate Change, Water, Environment and the Arts	Climate change and environmental impacts on coastal communities
Communications	International mobile roaming Cyber-crime
Economics	Raising the level of productivity growth in the Australian economy Competition in the banking and non-banking sectors
Education and Training	School libraries and teacher librarians Combining school and work
Employment and Workplace Relations	Regional skills relocation Pay equity and associated issues related to increasing female participation in the workforce
Family, Community, Housing and Youth	Better support for carers The impact of violence on young Australians
Health and Ageing	Obesity in Australia Regional health issues jointly affecting Australia and the South Pacific
Industry, Science and Innovation	Research training and research workforce issues in Australian universities Long-term meteorological forecasting International research collaboration
Infrastructure, Transport, Regional Development and Local Government	Smart infrastructure The Global Financial Crisis and regional Australia Level crossing safety Australia's coastal shipping industry
Legal and Constitutional Affairs	Whistleblowing protections within the Australian Government public sector Constitutional reform
Primary Industries and Resources	The role of government in assisting Australian farmers to adapt to the impacts of climate change Australian honey bee and pollination industries

Source Committee websites, viewed 21 April 2010, at: [http://www.aph.gov.au/house/committee/comm\\_list.htm](http://www.aph.gov.au/house/committee/comm_list.htm)

1.25 Through their policy inquiries, committees have the capacity to consider, assess and select public policy options, possibly contributing to the broader policy approaches taken by government.<sup>32</sup> Indeed, House committees in particular make significant use of this capacity, with most of their inquiries focussed on investigating matters of public policy, rather than scrutinising government administration.<sup>33</sup> Some examples of recent House and joint committee policy investigations are listed in tables 1.2 and 1.3.

**Table 1.3 A selection of policy inquiries conducted by joint committees, 42nd Parliament**

General purpose standing committee	Inquiry
Australian Commission for Law Enforcement Integrity	Law enforcement integrity models
Australian Crime Commission	Adequacy of aviation and maritime security measures to combat serious and organised crime
Corporations and Financial Services	Financial products and services in Australia Agribusiness managed investment schemes Shareholder engagement and participation
Electoral Matters	2007 federal election and matters related thereto (including electronic voting trials)
Foreign Affairs, Defence and Trade	Human rights mechanisms and the Asia-Pacific Australia's Relationship with ASEAN RAAF F-111 Deseal-Reseal workers and their families
Migration	Migration treatment of disability Immigration detention in Australia
National Capital and External Territories	The changing economic environment in the Indian Ocean Territories Role of the National Capital Authority
Public Accounts and Audit	Effects of the ongoing efficiency dividend on smaller public sector agencies Tax Administration
Treaties	Nuclear non-proliferation and disarmament

Source Committee websites, viewed 5 May 2010, at: [http://www.aph.gov.au/committee/committees\\_type.htm#joint](http://www.aph.gov.au/committee/committees_type.htm#joint)

32 I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, pp. 66, 68; Mr S. Georganas MP, *Submission No. 8*, p. 1; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 1.

33 See figures 6.1 to 6.3 in Chapter 6 of this report. M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, p. 36.



- 1.26 The effectiveness of committees' policy contribution is largely a product of their ability to open up debate to a plurality of views. House committee inquiries are naturally more accessible to the public than government policy-setting processes, and allow a 'wide range of people with diverse views [to] gain significant access to legislators.'<sup>34</sup> They provide a forum for the discussion of important and emerging national issues that might not have been debated publicly otherwise.<sup>35</sup> They also allow public opinion to be gauged and can bring to light problems that may not have received attention in the mainstream media.
- 1.27 Parliamentary committees can take evidence from a broad range of interested individuals and subject matter experts, including public servants, academics, non-government organisations, the business community, and citizens. This is especially valuable in assisting committees to carry out their policy investigation role. Considerable time is spent conducting public hearings where witnesses can express their views directly to members of parliament. Committees also devote a great deal of time to considering the evidence received, deliberating in private, and preparing a report of their findings.
- 1.28 Through their policy investigation role, House committees can therefore provide a great deal of assistance to the government in setting and re-evaluating policy priorities and in considering various policy options.

### **Scrutinising government administration**

- 1.29 Another key responsibility of parliamentary committees is to scrutinise government actions and the implementation of government policy. To some extent, the chamber also carries out this function: the opportunities for Members to seek information from Ministers through questions in writing and questions without notice during Question Time, are important forms of government accountability to the Parliament.
- 1.30 Parliamentary committees make a complementary contribution: they have available to them resources – including time – that allow effective scrutiny of government administration. Their powers to move from place to place, and to call for documents and to call witnesses, including public servants, assist them to carry out this role effectively.

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34 I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 77.

35 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 1. For example, the LACA Committee's inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system.

- 1.31 Some suggest that the Senate estimates process is the main source of parliamentary committee scrutiny of government administration.<sup>36</sup> But effective avenues are also available in the House. For example, any House general purpose standing committee may inquire into any annual report or Auditor-General's report that relates to a government agency within that committee's area of responsibility. As noted by the Department of the House of Representatives (DHR), the present system of House and joint committees provides 'an opportunity for scrutiny of all aspects of government policy and administration'.<sup>37</sup>
- 1.32 Joint committees also provide opportunities to scrutinise government administration. For example, the purpose of the Joint Committee of Public Accounts and Audit (JCPAA) is '... to hold Commonwealth agencies to account for the lawfulness, efficiency and effectiveness with which they use public monies.'<sup>38</sup> The JCPAA examines all audit reports produced by the Auditor-General, considering the audit findings and the agency's response. Where the committee considers that an audit warrants further examination, it seeks evidence at public hearings from relevant public servants.<sup>39</sup>

### **A bridge between Parliament and the public**

- 1.33 Through their inquiries, House committees have a role both in ensuring members of the public have a voice in the Parliament, and educating the public about matters of public policy and democratic processes. By providing a forum for discussing important matters of public policy and administration, committees have the potential to bridge the gap between Parliament and the people.<sup>40</sup> The creation of the Standing Committee on Petitions has enhanced the House's capacity to give members of the public a voice in the Parliament and to evoke a response from the government.
- Committee inquiries:

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36 For example: Civil Liberties Australia, *Submission No. 9*, p. 2; I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, pp. 66–90; M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, pp. 26–7; R Willis, 'The role of questions on notice in parliamentary democracy', *Australasian Parliamentary Review*, vol. 24, no. 2, p. 137.

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

38 Joint Committee of Public Accounts and Audit, *Committee establishment and role*, viewed 16 December 2009, at: <<http://www.aph.gov.au/house/committee/jpaa/about.htm>>.

39 Joint Committee of Public Accounts and Audit, *Committee establishment and role*, viewed 16 December 2009, at: <<http://www.aph.gov.au/house/committee/jpaa/about.htm>>. Other joint committees also carry out a scrutiny function. For example, the Joint Standing Committee on Foreign Affairs, Defence and Trade conducts regular inquiries into departmental annual reports.

40 Professor I. Marsh, *Submission No. 13*, pp. 2, 5.

... can be very effective pathways by which issues in the community find their way onto a government's agenda.<sup>41</sup>

- 1.34 The capacity that committees have to conduct inquiries outside the parliament building makes them all the more effective. Interstate and regional public hearings provide a less formal environment, facilitating input from a broader range of people.
- 1.35 Many public hearings are broadcast or available online, making them more accessible to the public. Several House committees have video footage of their hearings available on their websites, especially for inquiries that may be of significant interest to particular sections of the community. Australia's Public Affairs Channel (A-PAC) also broadcasts footage of some parliamentary committee hearings. Although A-PAC is distributed on subscription television services, it can also be viewed online at no cost.<sup>42</sup> Committee websites also include transcripts of public hearings, as well as all written submissions to inquiries.
- 1.36 Committee inquiries have the capacity to influence public debate in a particular policy area. Professor Ian Marsh argues that committees are an important source of engagement and social learning.<sup>43</sup> Likewise, Dr Ian Holland notes that committees have a role in influencing the way the community understands policy issues.<sup>44</sup> The considerable public interest committee reports sometimes generate<sup>45</sup> and the value of submissions to inquiries as a public resource facilitate this influencing process.
- 1.37 The opportunity for members of the public to participate in parliamentary processes through committee inquiries is not only an important outcome for the policy process, but also a useful source of civics education. It opens up the Parliament to the public and can help the community learn more about how their Parliament works. However, the education process should not be misunderstood as one-way: while contributing to and informing public understanding of policy issues, committee work is also an important source of education for committee members. This is discussed further below.

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41 I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 68.

42 Mr A. Frangopoulos, *Transcript of evidence*, 29 October 2009, p. 1.

43 Professor I. Marsh, *Submission No. 13*, p. 2. Professor Marsh defines 'social learning' as involving: 'the contribution of political processes to the understanding of policy issues amongst relevant participants, including legislators, public servants, ministers, interest groups the media and the broader community'. Professor I. Marsh, *Exhibit No. 5*, p. 1.

44 I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, pp. 78–9.

45 Mr S. Georganas MP, *Submission No. 8*, p. 1. For example, the Health and Ageing Committee's inquiry into obesity received attention in the media, contributing to the broader public debate.

### **Opportunities for private Members: a flow-on benefit**

- 1.38 Backbench Members appreciate the professional opportunities that committee work provides, which may be summarised as:
- the opportunity to develop knowledge and expertise in particular policy areas;
  - providing opportunities to contribute other than the frontbench; and
  - working with members of other political parties.

### **Education and building expertise**

- 1.39 Members often come to Parliament with considerable experience in particular industries, professions or academic fields. They may also be especially well-informed about particular regions or communities. The House committee system facilitates, and benefits from, Members applying their expertise to policy problems. Committee service allows Members to further specialise in those subjects, or develop new areas of expertise. It is not uncommon for Members to serve on one or more particular committees over successive Parliaments. This degree of specialisation can be satisfying for Members and also contributes to the effectiveness of the Parliament.
- 1.40 Through the conduct of inquiries, committee members can learn more about particular policy issues.<sup>46</sup> Committees are able to draw on the expertise and experience of relevant public servants. Inquiries also allow other policy professionals to express their opinions directly to members of parliament:

Frequently, parliamentary committees get one picture of an issue from government departments (whether state or federal), but they get significantly different evidence from individuals, NGOs and businesses about the same issue. The committee process can allow them to explore this divergence and the results can be of as much benefit to governments as to non-government parties.<sup>47</sup>

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46 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 1; I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 79.

47 I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 78.

1.41 Because House committee inquiries in particular tend to focus on emerging issues, Members have an opportunity to learn more at the 'strategic or emerging end of the issue cycle.'<sup>48</sup> Inquiries can therefore assist backbench Members to better prepare for and contribute to debates in the Chamber or within their respective party rooms:

... committees add a very important dimension to the democratic process by broadening and deepening consultation with the community before laws are passed.<sup>49</sup>

1.42 Opposition frontbenchers may use the committee system to enhance their knowledge of their own area of responsibility or to gain access to information that would otherwise be less accessible. Expertise gained through the committee system may also better position government and non-government backbenchers for promotion to the frontbench. These are indirect but nevertheless legitimate contributions to the effectiveness of the Parliament.

1.43 In addition to technical information, committee inquiries allow members to learn about the impact of policies on communities and tap into community sentiment around a particular issue:

... the inquiry process can provide [members of Parliament] with a reality check, attenuating overly narrow or ideological policy advice coming from a government or a government agency.<sup>50</sup>

1.44 Members acknowledge and appreciate this facet of committee work. As one Member notes:

Through committee work, members are exposed to a wide range of information through access to academics, community groups, representatives from government departments, the business community and individuals who have an interest in the particular subject matter that the committee may be dealing with.

... the committee work we participate in exposes us to the world around us and the way that everyday people are affected in their lives. It has been a very big education for me and the learning experience has proven invaluable.<sup>51</sup>

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48 Professor I. Marsh, *Submission No. 13*, p. 3.

49 Civil Liberties Australia, *Submission No. 9*, p. 1.

50 I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, pp. 77–8.

51 Ms A. Ellis MP, *Submission No. 16*, p. 2.

**Another way to contribute: committees as a career path**

- 1.45 Many backbenchers will never have the opportunity to serve on the frontbench, either in government or in opposition. In fact, two-thirds of all Members since federation have spent their time in the House exclusively as private Members.<sup>52</sup> Some Members prefer to spend their careers on the backbench.
- 1.46 For those Members – and for those wishing to eventually move to the frontbench – committee service offers opportunities to make satisfying and meaningful contributions to the development of public policy. Relatively recent official acknowledgment of the roles of Chairs and Deputy Chairs through remuneration has enhanced the committee system as a career path. However, this could be made more effective by strengthening various aspects of the committee system, as recommended in this report.

**Cooperation across party lines**

- 1.47 The committee system facilitates cooperation across party lines, with a range of political views and approaches represented on each committee. When Members work closely with one another to consider evidence and discuss relevant issues they develop understanding and respect for each other.<sup>53</sup>
- 1.48 Indeed, this cooperative, consensus approach taken by House committees is sometimes contrasted with the nature of proceedings in committees in the upper house.<sup>54</sup> This may be demonstrated by the relative unanimity of House committee reports: so far in the 42nd Parliament, 87 per cent of reports by House general purpose standing committees have been unanimous, compared with only 29 per cent in the Senate.<sup>55</sup>

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52 67 per cent; excludes all Members of the 42nd Parliament as at 19 February 2010.

53 The Hon. K. Rozzoli, *Submission No. 2*, p. 4.

54 M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, pp. 36–7.

55 As at 15 February 2010, according to analysis of information from websites of House and Senate non-domestic committees, at <<http://www.aph.gov.au/>>. Unanimous reports are those issued without dissenting or minority reports, or additional or supplementary comments.

## **The present inquiry: conduct, scope and structure**

### **Conduct of the inquiry**

- 1.49 In May 2009, the Committee agreed to investigate and report on the effectiveness of House of Representatives domestic and general purpose standing committees including:
- (a) the number, subject coverage, membership and means of appointment of committees;
  - (b) the type of work being undertaken by committees;
  - (c) the appropriateness of current Standing and Sessional Orders;
  - (d) the powers and operations of committees; and
  - (e) factors influencing the effectiveness of House committees, including resources and structural issues.
- 1.50 The Committee wrote to the Clerk, Members, a number of academics with an interest in parliamentary committees, and other members of the public, inviting written submissions to the inquiry. The Committee received 19 submissions, one supplementary submission, and seven exhibits, which are listed at Appendix C.
- 1.51 The Committee received evidence from the Speaker, Deputy Speaker, Clerk and Deputy Clerk at private briefings. In addition, the Committee held two roundtable discussions with committee Chairs and Deputy Chairs. Details of these meetings, including a list of participants, are available in Appendix D.
- 1.52 The Committee also held two public hearings in Canberra: one with Dr Phil Larkin, of the University of Canberra; and another with representatives from the DHR and A-PAC. Details are at Appendix D.

## Scope of the inquiry: what is 'effectiveness'?

- 1.53 Measuring the effectiveness of committees is a somewhat contested matter. Many media reports evaluating the effectiveness of parliamentary committees have focussed on the outcomes of inquiries, particularly completion rates, and the extent to which committee recommendations are adopted and implemented by government.<sup>56</sup> Similarly, most of the scholarly research focuses on the quantitative and qualitative outcomes of committee work.<sup>57</sup> There have also been attempts to compare the effectiveness of different committee systems through 'benchmarking' studies.<sup>58</sup>
- 1.54 While not dismissing the usefulness of these approaches, the Committee does not attempt to rate the 'effectiveness' of the House committee system in this way in its present inquiry. Instead, the Committee considers how House committees can improve their functionality to meet the changing needs of the Australian public; the ways in which committee work can be more appropriately integrated into the work of the Parliament; and how committee structures and operations might be changed to enable Members to better engage with committee work.
- 1.55 The House committee system comprises House general purpose standing committees, House domestic committees, and joint committees on which Members serve. Throughout its inquiry, the Committee has focussed primarily on how the House's system of general purpose standing committees might be improved, while also considering domestic and joint committees, as appropriate.

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56 See, for example: G Ryle and L Pryor, 'Democracy denied', *Sydney Morning Herald*, 20 June 2005, p. 1; G Ryle and L Pryor, 'Hot topics given cold shoulder', *Sydney Morning Herald*, 21 June 2005, p. 7; L Pryor and G Ryle, 'MPs travel the world, inquiries go nowhere', *Sydney Morning Herald*, 22 June 2005, p. 12; A Walters, 'Two pays one job', *Daily Telegraph*, 8 January 2010, pp. 1, 4.

57 D Monk, 'In the eye of the beholder? A framework for testing the effectiveness of parliamentary committees', *Parliamentary Studies Paper*, No. 11, Crawford School of Economics and Government, Australian National University, Canberra, 2009, p. 1.

58 See, for example: S Martin, *Explaining variation in the strength of parliamentary committees*, p. 31, viewed 3 August 2009, at: <<http://webpages.dcu.ie/~martins/committees1.pdf>>.



## Structure of this report

- 1.56 This chapter has described the current state of the House committee system and the contributions it makes. The remainder of this report is presented in six sections, each corresponding to a particular inquiry term of reference:
- Chapter 2 describes the resources available to the House committee system to carry out its functions – including funding, staffing, leadership and time – and considers current and alternative systems by which these are allocated;<sup>59</sup>
  - Chapter 3 looks at the House committee system’s role as the interface between representative democracy and participative democracy, and considers how this might be improved;<sup>60</sup>
  - In Chapter 4, the Committee considers the structure of the House committee system, including: the appointment process; eligibility criteria; the number and types of committee positions; the number and subject coverage of committees; and proposals for new committees;<sup>61</sup>
  - Chapter 5 discusses the powers and operations of committees not discussed elsewhere;<sup>62</sup>
  - Chapter 6 considers the type of work currently undertaken by House committees, and whether there is any value in adjusting the current balance;<sup>63</sup> and
  - Chapter 7 looks at the outcomes of committee work, including: the presentation of reports; government responses; the implementation of adopted recommendations; and whether there is scope for other ways of evaluating an inquiry’s effectiveness.<sup>64</sup>
- 1.57 In each chapter, key issues are considered and the Committee’s conclusions and recommendations presented. The third term of reference, the appropriateness of current standing and sessional orders, is addressed where relevant in each chapter.

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59 Relates to the fifth term of reference.

60 Relates to the fifth term of reference.

61 Relates to the first term of reference.

62 Relates to the fourth term of reference. Chapter 3 also gives some consideration to committees’ current and potential powers.

63 Refers to the second term of reference.

64 Relates to the fifth term of reference.

- 1.58 The Committee notes that the major review of the House committee system, undertaken in 1998, was successful in effecting some change.<sup>65</sup> It also notes that issues not addressed at that time are still relevant today. While the Committee has been careful not to duplicate the work of the 1998 review, it accepts that there may necessarily be some overlap.
- 1.59 The aspects of the committee system considered in the present inquiry – number and type of committees and committee positions; operations and powers of committees; and structural factors, including resources – are very much interdependent. The Committee has therefore taken a thoughtful and careful approach to formulating the recommendations presented throughout this report, which it intends to be taken as a suite of complementary measures, rather than a series of unrelated options.

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65 *Ten years on.* Appendix B contains a summary of government responses to the recommendations of this report, and a list of matters raised by the report and not supported by the government but which are still relevant today.

## Resourcing for committees

- 2.1 No review of committee operations or infrastructure could be complete without an examination of the resources available for undertaking those operations. Therefore the Committee included as its fifth term of reference: ‘factors influencing the effectiveness of House committees, including resources and structural issues’.
- 2.2 The Committee considers that resources are one of the most significant determinants of the committee system’s effectiveness. By ‘resources’ the Committee refers to funding, staffing and support services, and time.
- 2.3 The Department of the House of Representatives (DHR) currently supports 26 committees. The Department’s Committee Office supports the bulk of those: 12 House general purpose standing committees and nine joint committees.<sup>1</sup> The remainder are supported by smaller secretariats in other parts of the DHR, often by staff who perform other roles in support of the work of the House aside from committee support.
- 2.4 Chapter 1 described some of the contributions that an effective House committee system can make to a healthy democracy. In this chapter, the Committee considers the current resources available to the House committee system in relation to funding, staffing and time, and options for optimising its resourcing arrangements.
- 2.5 In the same way that the effectiveness of House committees can not be measured without an examination of the adequacy of their resources, in turn, elements of these resources, particularly funding and staffing, need to be put in context. For this reason the Committee makes some reference to the DHR as a whole, although it acknowledges that departmental resources are not within the scope of the terms of reference.

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1 As at 21 April 2010, the DHR is also supporting the Joint Select Committee on Cyber-Safety.

## Funding committee work

- 2.6 The *Financial Management and Accountability Act 1997* designates the Clerk as the Chief Executive of the DHR with responsibility for managing the Department's resources in an efficient, effective and ethical way. The Speaker is accountable to the House of Representatives for the Department, and the Clerk is responsible for the day to day management of the Department. The *Parliamentary Service Act 1999* also makes the Clerk, under the Speaker, responsible for the management of the Department, for advising the Speaker on matters relating to the Department and for assisting the Speaker to fulfil his accountability obligations to the House.
- 2.7 The DHR and the Clerk of the House of Representatives are subject to the same budgetary responsibilities and processes as apply to executive government agencies and heads of agencies. The Departmental budget estimates are prepared up to four years in advance, because of a requirement for agencies to submit three years of forward estimates in each budget process. Annual estimates are then adjusted (according to a formula set by the Department of Finance and Deregulation) to take account of inflation, wage changes, and executive government directives, such as the efficiency dividend.
- 2.8 The budget process is relatively inflexible. The only possibility for the DHR to vary its budget is if it makes a Portfolio Budget Submission (or New Policy Proposal) to the Expenditure Review Committee. In practice, the DHR rarely submits a request for additional funding.
- 2.9 In 2009–10, the DHR allocated \$13.345 million (60 per cent) of its overall budget (\$22.188 million)<sup>2</sup> to the Committee Office to provide:
- Procedural, research, analytical and administrative support for the conduct of inquiries and other activities of committees and the publication of the final report.<sup>3</sup>

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2 Department of the House of Representatives, *Portfolio Budget Statement 2009–10*. All budget figures include only departmental appropriations (and exclude administered appropriations and special accounts) as listed under the main appropriation bill.

3 Department of the House of Representatives, *Portfolio Budget Statement 2009–10*; Department of the House of Representatives, *Annual report 2008–09*, p. 9. In addition, several House domestic committees are supported and funded by areas of the Department outside the Committee Office. For ease of reference, references to the budget and staffing for the House committee system are restricted to the Committee Office in this report.

- 2.10 The average allocation to each committee supported by the DHR Committee Office was \$434 800 in 2008-09.<sup>4</sup> The bulk of this comprises staff salaries.<sup>5</sup> The remainder consists of administrative costs, such as printing of reports, staff travel in support of committee meetings and hearings, and venue and catering costs for meetings and public hearings.<sup>6</sup>
- 2.11 The DHR has acknowledged that its overall budget is under significant pressure and has affirmed its commitment to continuing to support committee activities to the greatest extent possible within available resources.<sup>7</sup> It advises that it has looked to technological developments to maintain service provision in the context of decreasing resources, but notes that this is not a sustainable situation in the longer term.
- 2.12 Given the contribution that committees make to the development of policy and scrutiny of government, the Committee considers a well-resourced and effective committee system can deliver savings to government and the Australian public by minimising the need for the use of much more expensive external consultancies. In addition, committee processes and practices offer proven consistency, transparency, and opportunities for consultation at a national level.
- 2.13 Between 2005-06 and 2009-10, the DHR budget has *decreased* by 7.18 per cent. Over that same period, the budgets of the Australian National Audit Office and the Commonwealth Ombudsman have *increased* by 3.86 per cent and 70.02 per cent, respectively. Significantly, the Department of the Senate's budget has also increased during that time, by 5.19 per cent.<sup>8</sup>

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4 Calculated from information in Department of the House of Representatives, *Annual report 2008-09*, p. 29.

5 Department of the House of Representatives, *Submission No. 6*, p. 15. The Department's submission to the Joint Standing Committee of Public Accounts and Audit's 2008 inquiry into the effects of the ongoing efficiency dividend on smaller public sector agencies includes a discussion at p. 6 of the proportion of the staffing component in small agency budgets.

6 Department of the House of Representatives, *Submission No. 6*, p. 15.

7 Department of the House of Representatives, *Submission No. 6*, p. 14.

8 Calculated from information in *Portfolio Budget Statements*, 2005-06 to 2009-10, adjusted to 2009-10 prices using the consumer price index; June 2010 index calculated using Treasury forecast of percentage change through the year. Figures include only departmental appropriations under the main appropriation bill.

### Committee conclusions

- 2.14 The Committee is concerned that the DHR's resourcing is under pressure, particularly when its budget changes are compared with some other departments. Although there have not been any dramatic decreases in the Committee Office budget in recent years, committees have been more active and have undertaken more innovative, resource-intensive activities. While such changes would normally necessitate additional funding, this has all been achieved within relatively stable funding levels. It is apparent to the Committee, however, that both the level of staffing and the continuity of staffing in the Committee Office have not been stable. This is discussed further at paragraphs 2.25 and following.
- 2.15 It is vital that the DHR is funded adequately to continue to support the House committee system to an appropriate standard. There is also a need to ensure that the DHR is appropriately funded to accommodate any changes in administrative and research support that may result from the recommendations contained within this report.
- 2.16 Funding should also accommodate the acceptance of recommendations made throughout this report, including:
- increases in supplementary committee membership, which may increase the administrative burden on secretariats;
  - the likely increase in the number of subcommittees and sectional committees, particularly for committees with broad areas of responsibility;
  - increasing the number of inquiries into bills and delegated legislation;
  - changes in the number and type of inquiries conducted, as a result of giving committees the power to initiate their own inquiries;
  - introducing new ways of gathering evidence and using new technologies;<sup>9</sup> and
  - continuing and enhancing promotional and community outreach activities and the broadcasting of committee proceedings.
- 2.17 Aside from the quantum of funding, the Committee is interested in how the budget is determined. Some individuals and organisations support parliaments being able to determine their own funding levels and

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9 Although such technologies can save committees time and the expense of travelling to meet with witnesses, start-up and maintenance costs are relevant considerations.

priorities, which they believe signals a healthy degree of independence from the executive government.<sup>10</sup>

- 2.18 There is a disconnect between the way decisions are made to refer work to committees, and how committee budgets are managed. Ministers and the House currently refer matters to committees for inquiry. If this Committee's later recommendations are accepted, there will be more referral of bills and committees will be able to initiate their own inquiries. Work is allocated to committees by a range of different people, each acting separately from each other, but all impacting on a central budget. Moreover, the trend for committees to do more innovative and interactive work, although welcomed, will also increase pressures on committee resources.
- 2.19 In a 'fixed budget' environment under the current system, responding to these evolving demands is the responsibility of the Clerk of the House of Representatives. The Clerk manages a set budget that is used to provide services to committees, whose work grows each year as a result of external forces.
- 2.20 Over the years, there have been several inquiries into the operation of the committee system.<sup>11</sup> A regular pattern emerges of an increase in the number of committees until resources are unsustainably stretched, followed by a reduction in the number of committees. The Committee believes that this pattern will continue unless the House itself takes a management role in setting priorities for committee work.
- 2.21 The Committee is concerned that the House itself does not currently have formal input into determining its funding levels and priorities, including for committee work. This is a long-standing matter that various committees have commented on from time to time. For example, although it did not make a specific recommendation for change, in 1976 the Joint

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10 Hon. D Hawker MP, 'Funding arrangements for the Parliament of Australia: A view to the future', 37th Presiding Officers and Clerks Conference, Perth, July 2006, D Beetham, *Parliament and Democracy in the Twenty-first Century: A Guide to Good Practice*, Inter-Parliamentary Union, Geneva, 2006; W Berry MLA, *The application of the Latimer House Principles in developing a legislature's budget: parliamentary autonomy versus executive prerogative*, 38th Presiding Officers and Clerks Conference, July 2007; Commonwealth Parliamentary Association, *Commonwealth (Latimer House) Principles on the Three Branches of Government*, 2003, viewed 17 March 2010, at: <<http://www.thecommonwealth.org/document/181889/34293/35468/37744/latimerhouse.htm>>; M Couderc, 'The administrative and financial autonomy of parliamentary assemblies', *Constitutional and Parliamentary Information*, No. 177, 1999.

11 Most notably: Joint Committee on the Parliamentary Committee System, *A new parliamentary committee system*, Australian Government Publishing Service, Canberra, 1976, p. 1; *Ten years on; It's your House; Sessional order 344; Promoting community involvement; Media coverage; House committee procedures*.

Committee on the Parliamentary Committee System noted the greater level of financial independence enjoyed by committees of the British and Canadian Parliaments, and:

... the inappropriateness of the present arrangements whereby parliamentary activity, including parliamentary committees, can be curtailed by government financial restrictions. The Committee considers that the Presiding Officers alone should be responsible for determining the funds required for parliamentary committee operations and the methods of expending these.<sup>12</sup>

- 2.22 The Committee notes with interest the proposals that have been made from time to time for improved funding for the House and for accountability arrangements. For example, following a recommendation of the Senate Select Committee on the Parliament's Appropriations and Staffing in 1981, the Senate established a Standing Committee on Appropriations and Staffing. The select committee also recommended that a similar committee be appointed in the House, but – for reasons the Committee is not aware of – this did not eventuate.<sup>13</sup> More recently, a former Speaker, the Hon. David Hawker MP, moved a private Member's motion for the appointment of a House Appropriations and Administrative Committee that would, among other things, consider House estimates, and proposals for administrative change to the DHR.<sup>14</sup>
- 2.23 The Committee agrees, in principle, with the Joint Committee of Public Accounts and Audit's (JCPAA) recommendation for the establishment of a parliamentary commission to recommend funding levels for the parliamentary departments.<sup>15</sup> As noted above, the Senate has a Standing Committee on Appropriations and Staffing that carries out this function.<sup>16</sup> Most overseas parliaments with a similar tradition to Australia's have more direct input in determining their funding levels and priorities.<sup>17</sup> An

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12 Joint Committee on the Parliamentary Committee System, *A new parliamentary committee system*, Australian Government Printing Service, Canberra, 1976.

13 H Evans, *Odgers' Australian Senate Practice*, 11th edition, Department of the Senate, Canberra, 2004, pp. 119–20.

14 H.R. Deb. (22.2.2010) 1471–2.

15 Joint Committee of Public Accounts and Audit, *Report 413 – The efficiency dividend and small agencies: size does matter*, Parliament of Australia, Canberra, December 2008, Recommendation 2.

16 Senate standing order 19.

17 H.R. Deb. (22.2.2010) 1471–4; Hon. D Hawker MP, 'Funding arrangements for the Parliament of Australia: A view to the future', 37th Presiding Officers and Clerks Conference, Perth, July 2006, p. 11; Scottish Parliament, *Scottish Parliamentary Corporate Body*, viewed 17 March 2010 at: <<http://www.scottish.parliament.uk/corporate/spcb/index.htm>>.



interim measure would be the establishment of a committee to oversight the House's funding and services.

- 2.24 The Senate's funding arrangements appear to be more flexible than the House's, particularly in relation to the funding of committee work, perhaps because of its Appropriations and Staffing Committee. The Committee notes that the approach to funding House committee work has changed over the years. In its submission to the JCPAA inquiry into the effect of the efficiency dividend on small agencies, the DHR advised that, in the early 1990s, its budget had been routinely supplemented by \$250,000 for each additional committee supported by the Department.<sup>18</sup> This automatic adjustment no longer takes place in the House.

### Recommendation 1

The Committee recommends that:

- **the Leader of the House act to establish a bipartisan House Committee on Appropriations and Staffing, chaired by the Speaker, to make recommendations to the House on:**
  - ⇒ **estimates of the funding required for the operation of the Department of the House of Representatives; such estimates, once agreed by the House, are to be conveyed by the Speaker to the Minister for Finance and Deregulation;**
  - ⇒ **proposals for changes to the administrative structure of, or service provision by, the Department of the House of Representatives;**
  - ⇒ **administration and funding of security measures affecting the House; and**
  - ⇒ **any other matters of finance or services referred to it by the Speaker or the House; and**
- **the Liaison Committee of Chairs and Deputy Chairs have a more active role in monitoring the resources available to committees, with the Chair to report to the House Committee on Appropriations and Staffing on committee activities and resource levels.**

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18 Joint Committee of Public Accounts and Audit, Inquiry into the effects of the ongoing efficiency dividend on smaller public sector agencies: Department of the House of Representatives, *Submission No. 10*, p. 10.

## Staff support for committee work

- 2.25 Apart from the availability of Members, the greatest requirement for a successful committee system is the availability of adequate staff resources:

Committees need an adequately large body of appropriately skilled support staff to ensure committees are able to develop an expertise in their policy areas in order to better scrutinise the government and hold it to account.<sup>19</sup>

- 2.26 Parliamentary committees are serviced by secretariats of professional parliamentary officers. Generally, secretariats are led by a committee secretary, who is assisted by one or more inquiry secretaries and research and administrative staff. Although a number of staff members have areas of expertise, all are expected to move between committees if required, enabling the Committee Office to respond to changes in committee activity levels.

- 2.27 Staffing costs comprise approximately 85 per cent of expenditure on services for committees administered by the DHR.<sup>20</sup> Following significant reductions in departmental appropriations, the DHR Committee Office was restructured in 1996–97. This involved a reduction in the number of committee secretaries, an increase in research capacity at less senior levels, and greater flexibility in the movement of staff between committees and between secretariats. Between 1996 and 2000, the number of committee secretaries was reduced from 17 to nine, and has since been reduced to eight.<sup>21</sup> The revised arrangements have also:

... placed greater pressure on committee secretaries in terms of managing the work of more than one committee.<sup>22</sup>

- 2.28 Currently, excluding domestic committees<sup>23</sup>, secretariats generally comprise seven to 10 managerial, research and administrative staff. However, the eight secretariats in the Committee Office support, between them, 21 House and joint committees. Five secretariats support three committees each, and the remaining three secretariats each support two.
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19 Dr P. Larkin, *Submission No. 14*, p. 3.

20 Department of the House of Representatives, *Submission No. 6*, p. 15.

21 Joint Committee of Public Accounts and Audit, *Inquiry into the effects of the ongoing efficiency dividend on smaller public sector agencies*: Department of the House of Representatives, *Submission No. 10*, p. 9.

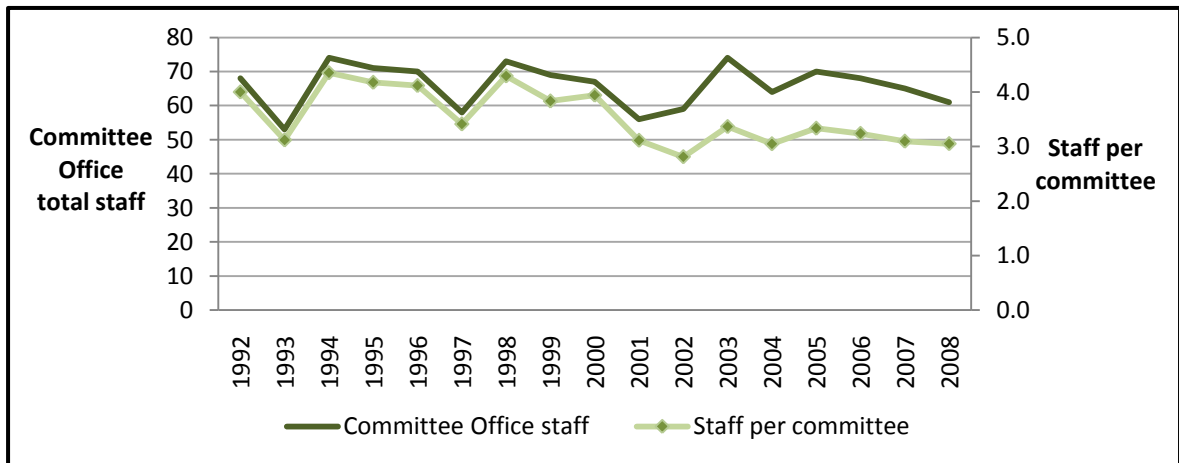
22 Department of the House of Representatives, *Submission No. 6*, p. 15.

23 Domestic committees are supported by areas of the DHR outside the Committee Office. Staff members supporting these committees often carry out other roles in addition to their committee duties.

- 2.29 Staffing levels in the Committee Office have remained reasonably constant over the years, but an increase in the number of committees has resulted in a pro-rata reduction in available research and administrative capacity. From 1992 to 2008, pro-rata staffing levels have moved from a peak of 4.4 in 1994 to 3.1 in 2008. In 2008–09, the House and Senate Committee Offices each comprised 61 staff. Pro-rata, this equates to 3.1 staff per committee in the House, compared with 3.4 in the Senate.<sup>24</sup>
- 2.30 Based on figures from the DHR’s submission, figure 2.1 indicates that pro-rata staffing levels closely followed overall staffing trends until 2001.<sup>25</sup> Since that time, the increase in the number of committees supported by the House of Representatives (from 17 in 2000 up to 22 in 2003 and 20 at present) has resulted in a gap between overall and pro-rata staff numbers.
- 2.31 Although the DHR acknowledges that a reduction in the number of committees may restore balance to the pro-rata staffing levels, it notes that:

... tightening budgetary circumstances may see further contraction of staff and will inevitably put further strain on resources.<sup>26</sup>

**Figure 2.1 Committee Office staffing, 1992 to 2008**



Source Department of the House of Representatives, Submission No. 6, p. 15.

24 Calculations based on: Department of the House of Representatives, Submission No. 6, p. 15; Department of the Senate, Annual report 2008–09, pp. 50, 57.  
 25 Department of the House of Representatives, Submission No. 6, p. 15.  
 26 Department of the House of Representatives, Submission No. 6, pp 16–17.

- 2.32 Professor Marsh assesses that staffing in the House of Representatives lags well behind such resources for parliamentary committees in the UK:

Both the funds assigned to committee work and the capacity of committees to engage specialist support for particular enquiries are much larger in the UK.<sup>27</sup>

- 2.33 Various Chairs and Deputy Chairs reported a number of issues associated with the amount of staff turnover in the Committee Office. Although Members acknowledge that some movement of staff between committees is to be expected, excessive turnover may compromise the accumulation of corporate knowledge and the development of expertise in particular policy areas, as well as disrupt the progress of committee inquiries and activities.

- 2.34 One of the key functions of committees is information gathering and taking account of community views.<sup>28</sup> This sometimes necessitates extensive travel by committees, and they must be adequately resourced for these purposes. That is, secretariats need to be funded to enable necessary travel (although the Committee acknowledges no specific evidence was received regarding necessary travel that could not be funded) and a sufficient number of suitably qualified staff whose personal circumstances allow them to travel for work.

- 2.35 Professor Geoffrey Lindell suggests making better use of modern communication facilities to reduce costs associated with committees gathering evidence from interstate witnesses.<sup>29</sup> Greater use of technology could have real advantages in terms of resource savings. The DHR, however, notes that there is a limit to these efficiencies:

Through technological innovation the Committee Office has been able to maintain a high level of service to committees despite tightening resources. ... However, there is a limit to the role technology can play and it is certainly no replacement for experienced and skilled staff.<sup>30</sup>

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

28 House of Representatives Standing Committee on Employment and Workplace Relations, *Submission No. 12*, pp. 1-2.

29 Professor G. J. Lindell, *Submission No. 4*, p. 1.

30 Department of the House of Representatives, *Submission No. 6*, p. 16.

- 2.36 Several witnesses – including some committee Chairs and Deputy Chairs – suggested that committee resources appeared to be coming under increasing pressure.<sup>31</sup> However, one Chair stated that his committee is adequately resourced.<sup>32</sup>

### Committee conclusions

- 2.37 Over the years, there has been increased flexibility and mobility of staff within the House Committee Office. Secretariats have drawn on specialist advisers from the public and private sectors, as well as secondees from government departments, and they continue to do so. This has ensured the availability of specialist advice, but the Committee considers there is scope to increase the amount of specialisation among the Committee Office's own, permanent staff.
- 2.38 While acknowledging the importance of mobility and flexibility and the fact that many staff seek out new subject areas to develop their professional knowledge and skills, many Chairs and Deputy Chairs were concerned that too much movement of staff between committees could compromise the efficiency of the House committee system and result in a loss of 'corporate memory'.
- 2.39 The Committee notes that, if some other recommendations (considered later in the report) regarding the number and structure of committees are adopted, there may be significant changes to staffing arrangements in the Committee Office. The Committee is also aware that committees vary in the number and nature of inquiries they undertake, and that the parliamentary cycle necessitates variations in work programs. It therefore does not wish to be prescriptive at this stage or to make any specific recommendations regarding mobility. It does, however, record its concerns regarding what it sees as excessive staff turnover in the Committee Office and asks that the DHR monitor this issue over the coming years. Whether the increased turnover the Committee has observed is a natural element of general public sector and demographic issues of the 21st century, or can be attributed to other causes particular to the Committee Office, is something that the Committee would like the Department to consider.

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31 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, pp. 4-5, 7; Department of the House of Representatives, *Submission No. 6*, pp. 14-7; Mrs A. Ellis MP, *Submission No. 16*, pp. 3-4; House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, *Submission No. 19*; some Chairs and Deputy Chairs consulted as part of this inquiry.

32 Mr S. Georganas MP, *Submission No. 8*, p. 3. Mr Georganas chairs the House of Representatives Standing Committee on Health and Ageing.

- 2.40 Commitments by Committee Office staff to supporting the work of the House and its committees have changed over the last ten or so years, with a number of senior staff volunteering to take on activities beyond their immediate secretariat work. The outreach work done by the DHR, and often managed by the Liaison and Projects Office established in 1998–99, has involved some senior Committee Office staff from the beginning.<sup>33</sup> This includes involvement in presentations on parliamentary committee work at seminars, assisting with liaison work with, for example, the departments that are ‘shadowed’ by the committees they support, and being involved in formulating and implementing media strategies for these committees.
- 2.41 Further, the Committee has observed that senior Committee Office staff have supported the Main Committee since soon after its establishment in 1994, by working as deputy clerks at the table. The hours of operation of the Main Committee have increased over time and it would seem that, as a natural consequence, additional hours have been required of support staff and the hours available for committee work have decreased.<sup>34</sup>
- 2.42 The Committee is aware of the implications of the small size of DHR for the maintenance of its service to the House and its Members in their parliamentary duties, and committees. Although the ‘extra’ activities by some Committee Office staff are valuable in terms of their professional development, and give welcome strength and flexibility to DHR’s capability, the Committee questions whether these additional roles have been factored in adequately to allocations of staff to committees.
- 2.43 The Committee also notes that the capacity of senior committee staff has been affected by broader public sector reforms and the restructuring of the Committee Office in the 1990s. As a result, needs and expectations have changed, and committee secretaries have greater managerial responsibilities (in common with their public sector counterparts).<sup>35</sup> Again, the Committee is concerned that, although it is appropriate for the DHR to keep pace with public sector reforms, it may not have been resourced suitably and that time taken away from either supervising colleagues’ work on the ‘core’ elements of research, analysis and drafting, or

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33 Department of the House of Representatives, *Annual report 1997–98*, p. 3; Department of the House of Representatives, *Annual report 1998–99*, pp. 15, 32–3.

34 For example, the Main Committee sat for 112 hours in 1997–98 (Department of the House of Representatives, *Annual report 1997–08*, p. 104), and 267 hours in 2008–09 (Department of the House of Representatives, *Annual report 2008–09*, p. 68).

35 Department of the House of Representatives, *Annual report 1995–96*, p. 22.

undertaking that themselves, may not have been acknowledged adequately in allocation of staff to committees.

- 2.44 It is essential that the House committee system continues to be serviced by adequate numbers of staff with the appropriate qualifications and knowledge of the parliamentary and committee context. The Committee supports a review being conducted to determine the adequacy, or otherwise, of current staffing levels in the Committee Office.
- 2.45 The Committee also supports the DHR undertaking negotiations with the Department of Finance and Deregulation to establish a process for funding committee work in a way that provides certainty and responsiveness to the House's needs.

## **Recommendation 2**

**The Committee recommends that:**

- **prior to the commencement of the 43rd Parliament, the Speaker arrange for an external review of staffing levels within the Department of the House of Representatives Committee Office, incorporating a work analysis to determine the nature and level of secretariat support necessary for the ongoing and inquiry work of committees, to ensure that the House committee system is supported by an adequate number of appropriately qualified staff;**
- **the ongoing funding for committees supported by the Department of the House of Representatives be restored to pre-1995-96 levels, in real terms; and**
- **the Department of the House of Representatives and the Department of Finance and Deregulation undertake negotiations to establish a sound basis for funding the work of committees supported by the Department of the House of Representatives, that provides greater certainty and is more responsive to the House's needs, with a view to a new system being implemented in time for the 2011-12 budget process.**

## Resources for members: maximising their contributions

- 2.46 The other essential human resource for effective committees is the participation in and leadership of committees. Members come to Parliament with a range of experiences. Despite this, participating in parliamentary committees can be a demanding and, at times, complex responsibility.<sup>36</sup> In its discussions with other committee colleagues, the Committee noted that there may be aspects of the House committee system that could be better explained for those new to committee work.
- 2.47 An effective committee system requires adequate and appropriate resources, including background education for Members participating in committee work. Members (particularly Chairs and Deputy Chairs) need to be fully aware of what their committee roles entail, to ensure that they make the maximum contribution to this aspect of their work, in the service of the Australian public. This includes, for example, Committee Chairs receiving adequate guidance regarding their various roles, including not only procedural and meeting management, but also information on their committee's budget.
- 2.48 The Committee acknowledges the opportunities provided by the Liaison Committee of Chairs and Deputy Chairs, chaired by the Deputy Speaker, for ongoing discussions about whole-of-committee system issues. The Committee considers the scope for increased activities of the Liaison Committee.

### Committee conclusions

- 2.49 The provision of information sessions for committee members and Chairs and Deputy Chairs, mainly at the beginning of a Parliament but also with an ongoing component, would be particularly valuable for Members new to the House committee system and to Chairs and Deputies new to their roles.
- 2.50 New committee Chairs and Deputy Chairs may be interested in participating in specialised information sessions at the beginning of a Parliament and also in informal mentoring provided by more experienced Chairs and Deputy Chairs.
- 2.51 The Committee notes that the DHR provides orientation sessions for new Members, including components on committee work.<sup>37</sup> The Committee

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36 Doctors for the Environment Australia, *Submission No. 17*, p. 1.

37 At the beginning of each Parliament, the DHR holds information sessions for new Members. These sessions cover a range of matters, including the operation of the House committee



considers that some of this information may be given to Members too early in the Parliament, perhaps when they are being overwhelmed with information on a range of aspects of their new roles. Similarly, the utility of sessions run later in the Parliament may be compromised by Members' availability, as the full range of demands on their time come into force.

- 2.52 One way to overcome these difficulties would be to have some of these briefing materials available electronically, so that all Members can access them easily at a time convenient to them. Another (complementary) avenue would be to retain the committee information in the orientation sessions given to new Members at the beginning of a Parliament, and hold a follow-up session approximately three months later, to allow Members to discuss matters and ask questions, once they have had some committee experience.
- 2.53 The Liaison Committee of Chairs and Deputy Chairs would be well-placed to draw on relevant expertise of its membership to provide meaningful and contextualised guidance to Members new to their various committee roles, whether member, Chair or Deputy Chair.

### **Recommendation 3**

**The Committee recommends that the Speaker develop options for providing induction to Members on their roles as committee members, Chairs and Deputy Chairs. Such induction should include information on roles and responsibilities, powers, communication and committee resources. These initiatives should be in place for the commencement of the 43rd Parliament.**

## **Competing demands on Members' time**

- 2.54 All of the committee system's roles, outlined in Chapter 1, contribute to the Parliament's effectiveness. These contributions could be strengthened by ensuring the widest possible range of backbench participation and by reducing some of the competing demands on Members' time. The latter would not necessarily decrease committee members' workloads, but

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system. Over the course of the Parliament, Members are also invited to attend regular briefings, which cover a range of procedural and administrative issues relevant to Members' parliamentary work. Members may also raise questions relating to any aspect of House or committee administration and procedure at a weekly 'drop in centre' meeting in sitting weeks.

would ensure that they are better able to devote themselves to the inquiries in which they are involved, to the high standards they expect of themselves.

- 2.55 Discussions consistently confirm that backbench Members see committee work as a major component of their responsibilities.<sup>38</sup> Their contributions are significant 'resources' that determine the committee system's effectiveness. This section considers the nature of committee (and other) demands on Members' time, and how these demands might be addressed to better accommodate committee work.

### Sources of committee obligations

- 2.56 In addition to informal discussions among committee members, committee business is generally conducted through three types of formal meeting:
- *public hearings*, where witnesses give evidence before the committee and interested members of the media and public, and members of the community may make statements on a range of issues. Public hearings can be broadcast via radio, television and the internet, and a transcript of proceedings (*Hansard*) is usually publicly available shortly afterwards;
  - *private briefings*, where witnesses may give evidence before the committee and secretariat staff. These are closed to the public, are not broadcast and no transcript is publicly available; and
  - *private meetings*, which are closed to all but committee members and secretariat staff. This is when the committee conducts its routine business and where members discuss and decide on matters, such as reports of inquiries.
- 2.57 Private meetings are usually held in Parliament House during sitting weeks, but may occur at other times and places. Private briefings and public hearings may also be held in Parliament House during sitting weeks, but regularly take place in other capital cities and regional areas around Australia, usually in non-sitting weeks.

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38 Roundtable discussions with Chairs, Deputy Chairs and other members of committees, both during the present inquiry and the Committee's inquiry into the conduct of the business of the House.

## Sitting weeks

- 2.58 During sitting weeks, Members divide their time between committee work, contributing to Chamber and Main Committee proceedings, party commitments, meeting with visiting parliamentary delegations and other guests, constituent work, and a range of other meetings and functions.
- 2.59 Considerable evidence, from across the political spectrum, suggests that the work of committees could be better integrated into the work of the House. Meetings held in Parliament House during sitting weeks are often interrupted because of formal votes and quorum counts in the Chamber. This can be particularly frustrating when the committee is holding a public hearing or private briefing: Members are mindful of the inconvenience to witnesses, particularly those who have travelled considerable distances to assist committees as well as to the process of gathering the necessary evidence for the committee's work.

## Non-sitting weeks

- 2.60 In non-sitting weeks, Members' responsibilities range from constituent and community work, travel on official parliamentary business (including, but not limited to, committee business), personal and family commitments, and political party obligations. Committees also schedule many public hearings and meetings outside Canberra in non-sitting weeks.
- 2.61 In the past, the sitting pattern has, where practical, included at least two non-sitting weeks preceding any House sitting fortnight or single sitting week. In recent years this has not always occurred, particularly during the Autumn and Winter/Budget sittings. In the 2010 sitting pattern, for example, all non-sitting breaks in the first half of the year are only one week long.<sup>39</sup> These short breaks between sitting fortnights can be challenging for Members, particularly those in regional and distant areas who may be prevented from spending adequate time in the electorate.
- 2.62 These shorter breaks can also make it more difficult for committees to achieve a quorum (or even a sub-committee quorum) to gather evidence, or result in witnesses being heard by only a small proportion of the committee membership.

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39 House of Representatives, *Scheduled sittings for 2010*, viewed 10 January 2010, at: <http://www.aph.gov.au/house/info/sittings/index.htm>.

## Redressing the balance

- 2.63 Many members of the community and media are unaware of the range of demands placed on Members, particularly during non-sitting weeks. Given the public benefits of committee work, the Committee considers that more could be done by the House to accommodate committee work within its existing structures. Members consistently expressed their desire to carry out as much high-quality committee work as possible.
- 2.64 In Chapter 4, the Committee considers some committee-specific reforms that may assist Members, including limiting the number of committees and the permanent positions on them, and increasing flexibility to allow Members to participate fully in inquiries that are of particular interest to them. In Chapter 7, the Committee discusses options for better integrating the work of committees into Chamber and Main Committee proceedings. Some other possible reforms relate to the structures of the House, such as the parliamentary sitting pattern and arrangements for public hearings during sitting weeks. These are considered below.

## The impact of the parliamentary sitting pattern

- 2.65 The DHR suggests that changes to the parliamentary sitting calendar over a number of years have affected Members' availability for some committee work, particularly interstate hearings.<sup>40</sup>
- 2.66 The Committee urges the Government to ensure that, where possible, each single sitting week or sitting fortnight is preceded by at least two non-sitting weeks. The Committee notes that similar recommendations have been made by past Procedure Committees, and therefore does not wish to elaborate on these here.<sup>41</sup> The Committee is hopeful, however, that the Government will reconsider this long-standing issue.

## Minimising disruptions in sitting weeks

- 2.67 Committees are subsidiary bodies of the House and, as such, committee meetings are often disrupted by Members needing to attend divisions in the Chamber. The Committee recognises that the Chamber is the first priority. However, Members respect the needs of witnesses who may be giving particularly distressing evidence before a committee, or who may have travelled long distances to meet with the committee. There are a

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40 Department of the House of Representatives, *Submission No. 6*, pp. 4–5.

41 *Days and hours*, recommendation 1; *About time*, recommendation 10; *Time for review*, recommendation 12.

number of circumstances where responsibilities to the Chamber may need to be balanced against these other considerations.

2.68 There are various options that could assist in these circumstances. Some options presented to the Committee included:

- proxy votes or pairing arrangements for Members participating in public hearings or briefings when a division is called in the Chamber;
- having periods of 'committee only' time included in the weekly and/or annual schedule of parliamentary sittings, to ensure that at least some committee meetings are guaranteed not to be disrupted by Chamber proceedings; and
- electronic voting in the Chamber, to speed up formal votes.

2.69 The Committee recognises that the present arrangements may be problematic. It therefore favours a future committee undertaking an inquiry into options for minimising disruptions to committee meetings in sitting weeks.



## Committees: Participatory democracy

3.1 The House committee system operates as an interface between representative democracy and participatory democracy, acting as a 'bridge' between the Parliament and the people. In this section, the Committee considers how improvements might be made to structural issues, such as:

- accommodating new ways of interacting with the public;
- ensuring strong relationships with witnesses; and
- the House's role in managing its relationship with the public.

3.2 First, the Committee makes some observations on the particular traits of the House committee system that enable it to be such an effective participatory democracy tool.

### A bipartisan approach: House committees' signature

3.3 Many witnesses and scholars refer to committees' role in scrutinising government and holding it to account.<sup>1</sup> This is certainly one aspect of the House committee system. Although its scrutiny work involves the robust discussions one would expect of a healthy parliamentary institution, it is typically more cooperative and bipartisan in nature than in some other

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<sup>1</sup> For example: Civil Liberties Australia, *Submission No. 9*, p. 2; Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, pp. 4-5; Dr P. Larkin, *Submission No. 14*, p. 2; I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, pp. 66-90; M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, pp. 26-7; R Willis, 'The role of questions on notice in parliamentary democracy', *Australasian Parliamentary Review*, vol. 24, no. 2, p. 137.

committee systems. Historically, House committees have also focussed on working cooperatively to formulate constructive solutions to public policy problems.

- 3.4 One of the most consistent messages from the Speaker, Deputy Speaker, and committee Chairs and Deputy Chairs, was that Members greatly value the opportunity to work cooperatively across party lines.<sup>2</sup> While this approach may not attract as much media attention as an adversarial, party-political one, Members consider that it delivers significant benefits to the Australian community, in terms of policy formulation and implementation and community input.
- 3.5 The House's current committee system was formally established in 1987 and has evolved into a mature system of committees with its own distinctive culture and traditions. The Committee, and Members consulted by it, see these traits as being especially valuable in facilitating the House committee system's participatory democracy contribution. The Committee therefore does not seek to make any recommendations that would jeopardise this.

## **New ways of interacting with the public**

- 3.6 This section of the chapter considers how committee inquiries are usually carried out, and whether there might be scope to improve the way these operations contribute to the committee system's role as a bridge between Parliament and the public.
- 3.7 First, the Committee discusses emerging trends in gathering evidence for inquiries. Secondly, the Committee specifically considers the use of information and communication technologies, both in the conduct of inquiries and the committee's private deliberations, and considers potential barriers. Finally, the Committee discusses the relationships the House has with witnesses and with the general public.

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2 Also discussed in Chapter 1.



## New technologies, new possibilities

- 3.8 The committee system, and the associated standing orders, were developed in a time where print and radio were the principal methods of communication. Committees essentially conducted enquiries, called for and accepted written submissions, held public hearings or private briefings, and produced printed reports. For most of the life of the current House committee system, interaction required a meeting of people, and travel was expensive.
- 3.9 Over the years, travel has become less expensive, teleconferences and videoconferences are now more accessible, and genuine interaction is possible online. A committee seeking to engage with the community could, subject to standing orders, hold a dialogue with the community, or host a conversation between members of the community. Methods of 'inquiry' have expanded.
- 3.10 A brief analysis of language of previous reports shows that when talking of committees, the collection of information from the public, and the presentation or promotion of committee work, are the norms.<sup>3</sup> Essentially, the process may be summarised as: gathering information, writing the report, and telling people about it. In reports in the age of television, the language shows a concern for controlling the image presented to the public is the norm.
- 3.11 The Committee believes that the House committee system is unique. Its bipartisan nature and its focus on policy allow it to adopt a more progressive approach to the ways that it builds the bridges between the community and the Parliament, and the ways it engages the community in the work of the Parliament.
- 3.12 The language of a modern committee system would be more about public access and dialogue. There are a few examples of committees that have moved beyond the conventional model, incorporating regular briefings, electronic communications, and conferences.<sup>4</sup>

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3 See, for example: Chapter 6 of *It's your House*.

4 Some of these are discussed at paragraph 3.16.

- 3.13 There are broadly three phases associated with the conventional model of the conduct of committee inquiries:
- adoption or receipt of the terms of reference;<sup>5</sup>
  - promotion of the inquiry and receipt of written submissions from relevant stakeholders, generally followed by selected witnesses giving oral evidence at public hearings or private briefings; and
  - committee consideration of the available evidence and production of a report of its findings, which is presented in the House.<sup>6</sup>
- 3.14 Over recent years, some aspects of evidence gathering have been modernised in response to emerging technologies. For example, although submissions used to be forwarded in hard copy, committees now accept submissions by email as well, making the process more efficient and accessible.
- 3.15 Some submissions and research suggest that committees be open to collecting evidence for inquiries via the internet, through discussion boards and online forums, to reduce travel costs and to open up the inquiry process to a different audience.<sup>7</sup> Professor Marsh suggests other approaches, such as deliberative forums, citizen juries, focus groups and quantitative surveys of public opinion.<sup>8</sup>
- 3.16 As noted above, some committees have started to move away from the traditional model of evidence-gathering, in favour of activities that may allow for broader participation and facilitate a 'conversation' between witnesses. For example, one committee has recently hosted a conference as part of an inquiry,<sup>9</sup> and roundtable discussions are frequently used by

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5 House general purpose standing committees receive their references from the House or from the relevant Minister. Within this process, there is scope for such committees to negotiate the terms with the Minister. Some domestic and joint committees may adopt their own terms of reference.

6 Similar accounts of the inquiry process are given in: I Holland, 'Parliamentary committees as an arena for policy work' in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 74; M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, pp. 28–9.

7 The Hon. K. Rozzoli, *Submission No. 2*, p. 13; Professor G. J. Lindell, *Submission No. 4*, p. 2; J Baczynski, 'Opportunities for greater consultation? House committee use of information technology and communication technology', *Parliamentary Studies Paper*, No. 8, Crawford School of Economics and Government, Australian National University, Canberra, 2009.

8 Professor I. Marsh, *Submission No. 13*, p. 5.

9 The House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government, as part of its inquiry into smart infrastructure. See conference page, viewed 16 March 2010, at:

<<http://www.aph.gov.au/house/committee/itrdlg/smartinfrastructure/thinkfuture.htm>>.

committees.<sup>10</sup> Some committees have also used web-based solutions to inform their inquiries: for example, in 2009 the Standing Committee on Education and Training used an online survey to facilitate input from high school students.<sup>11</sup>

- 3.17 Some committees also make use of regular briefings. For example, the Joint Standing Committee on Foreign Affairs, Defence and Trade is undoubtedly a very effective committee, which operates differently to some other committees. Its regular program of briefings for the committee plays an important role in direct communication between the two houses and with its constituent communities.
- 3.18 Parliamentary Friendship Groups, which are less formal structures, also fill this role in a range of areas, providing ongoing contact and dialogue with a range of groups, including people with disabilities, and the United Nations. Given that there has been an expansion in the number of Friendship Groups, it could be said that parliamentarians appreciate the opportunity for interaction and information exchange with a range of communities.

### **Committee conclusions**

- 3.19 The Committee is pleased with these increasingly diverse methods of evidence-gathering. They allow committees to engage with more sections of the population and can facilitate the collection of sensitive evidence, which witnesses may be hesitant to give in person. There is scope to expand committees' use of web-based tools – including social networking sites – and to explore alternative methods of operating.
- 3.20 These different types of evidence-gathering are unlikely to obviate the need for committees to travel and receive oral evidence in person at public hearings. These will continue to be important: they allow Members to engage with members of the public in their own communities and hear witness experiences first hand.

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10 For example, the House of Representatives Standing Committee on Health and Ageing has hosted a number of roundtable forums throughout the 42nd Parliament, including those into impotence medications; regional health issues jointly affecting Australia and the South Pacific; and burns prevention. See list of activities, viewed 16 March 2010, at: <http://www.aph.gov.au/house/committee/haa/reports.htm>.

11 This was part of the Committee's inquiry into combining school and work. A printable version of the survey was made available and responses were also accepted in hard copy; Standing Committee on Education and Training, *Adolescent overload? Report of the inquiry into combining school and work: Supporting successful youth transitions*, p. 5.

- 3.21 Nevertheless, committees should continue to be innovative in their evidence-gathering methods, having regard to the nature of the inquiry and the needs of interested individuals and organisations. Because a broad range of such methods are enabled under the existing standing orders, the Committee does not make any recommendation for change.
- 3.22 The Committee does note, however, that conducting inquiries through new technologies (such as hosting internet-based discussions with witnesses and other interested members of the public) may necessitate the House reviewing its practices to, among other things, ensure the appropriate protection by parliamentary privilege. Committee practices have tended to be relatively stable in the past, and have largely followed precedents. Given the potential for rapid technological change in the current environment, the Committee will continue to monitor developments in this area.
- 3.23 While new technologies provide new opportunities, they may also require new levels and types of support. Some technologies, such as those involving new web interfaces, require staffing levels and expertise currently under pressure or unavailable to committees. The Committee therefore urges the Department of the House of Representatives (DHR) to monitor the need for additional resources into the future.

### **Information and communication technology**

- 3.24 Traditionally, committees receive oral evidence from witnesses through private briefings and public hearings, at Parliament House and beyond. Standing order 235(b) allows committees to resolve to conduct proceedings using audio visual or audio links. Some committees have used this to hold briefings by teleconference or videoconference. Information and communication technologies have, in some cases, therefore obviated the need for witnesses or the committee to travel.
- 3.25 Developments in the use of these technologies have helped House committees operate more efficiently and effectively, making inquiry processes accessible:

The emergence of interactive information and communication technologies has given House committees the opportunity to reassess the flow of communication during committee inquiries, and may provide an alternative avenue for the committees to

engage with relevant groups in the community regardless of their physical location.<sup>12</sup>

- 3.26 Evidence generally favoured the expanded use of teleconferencing and videoconferencing, where appropriate.<sup>13</sup> There are some barriers to this: for instance, there may be infrastructure limits to committees regularly conducting teleconferences or videoconferences, particularly if many more committees start taking up these options.
- 3.27 Furthermore, the current standing orders assume that committees can anticipate the need to use audio and visual links for a private or public meeting, and pass an enabling resolution at a prior meeting:
- In particular, during the longer parliamentary breaks issues may arise that need to be dealt with, where a meeting using an audio visual or audio link would be able to address the issue. However, as no resolution authorising this is in place, committees either have to defer consideration of a matter, or incur expenditure by bringing Members together for what may be a brief meeting.<sup>14</sup>
- 3.28 Noting these difficulties with standing order 235(b), the DHR recommends an amendment:
- (b) A committee may ~~resolve to~~ conduct proceedings using audio visual or audio links with members of the committee or witnesses not present in one place.<sup>15</sup>

### Committee conclusions

- 3.29 Although there are financial and logistical benefits offered by information and communication technologies, it is neither practical nor desirable for *all* committee meetings to be conducted by teleconference or videoconference. There is value in committees travelling from place to place to get a sense of issues where they exist and gauge community

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12 J Baczynski, 'Opportunities for greater consultation? House committee use of information and communication technology', *Parliamentary Studies Paper*, No. 8, Crawford School of Economics and Government, Australian National University, Canberra, 2009.

13 There was general support for this during the Committee's consultations with Chairs and Deputy Chairs. There may be situations where the use of audio and visual links would not be appropriate. For example, if a witness's veracity needs to be tested, a committee would likely prefer to examine the witness in person. Similarly, if an inquiry has a particular geographical focus, a committee may prefer to visit the community to witness issues and experiences first hand.

14 Department of the House of Representatives, *Submission No. 6*, p. 11.

15 Department of the House of Representatives, *Submission No. 6*, p. 11.

attitudes and experiences first hand. Committees will still need to gather evidence in person in many instances.

- 3.30 However, the Committee supports the use of relevant technologies to make deliberations and evidence-gathering more efficient and effective, and sees scope for the House to take a more strategic approach to its use of technology.
- 3.31 The DHR does not specify whether any change should be made to the last sentence of standing order 235(b), which currently reads, 'A committee may resolve for a subcommittee to use audio or visual links'. The Committee suggests that no change be made to this section at this time, to allow individual committees to run their subcommittees as they see fit.
- 3.32 The Committee accepts the DHR's suggested amendment to standing order 235(b) but notes that reducing barriers to the use of technologies may increase demand for teleconferencing and videoconferencing facilities. It is essential that adequate and appropriate facilities are available to all committees wishing to use them.

#### **Recommendation 4**

**The Committee recommends that the phrase 'resolve to' be omitted from standing order 235(b).**

#### **Recommendation 5**

**The Committee recommends that the Speaker arrange for:**

- **an investigation of the adequacy of teleconferencing and videoconferencing facilities available to committees; and**
- **consideration of any upgrades or additional facilities required to meet current and anticipated future demand from committees.**

## Interacting with witnesses: ensuring strong relationships

- 3.33 The success of committee inquiries depends largely on the contribution and goodwill of witnesses. Policy experts and members of the community have a substantial input to inquiries, shedding light on matters that the Parliament might not otherwise be aware of.
- 3.34 The Committee received proposals on the range of witnesses able to be called by House committees, and the treatment of witnesses. The Hon. Kevin Rozzoli suggests that there should be no restrictions on who a committee may call as a witness, and would include the staff of Ministers.<sup>16</sup> The Committee also received a submission supporting committees having the power to compel Ministers to appear before them.<sup>17</sup>
- 3.35 Some evidence suggests that witnesses may not always feel that they are treated with appropriate respect and courtesy.<sup>18</sup> Although some of these comments do not appear to refer to *House* committee proceedings, the Committee supports the House affirming its continuing commitment to the highest standards of conduct when interacting with witnesses.
- 3.36 The DHR notes that the standing orders currently provide little guidance to committees on interactions with witnesses.<sup>19</sup> The DHR supports the House passing a resolution along the lines of that recommended by the Procedure Committee in its 1999 report.<sup>20</sup> This proposed resolution is currently used as a guide by committee staff.<sup>21</sup>

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

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

18 For example: Civil Liberties Australia, *Submission No. 9*, p. 1; Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, p. 8.

19 Department of the House of Representatives, *Submission No. 6*, p. 13.

20 Department of the House of Representatives, *Submission No. 6*, p. 13. The text of the proposed resolution is reproduced at Appendix E of this report.

21 Department of the House of Representatives, *Submission No. 6*, p. 13.

**Committee conclusions**

- 3.37 The Committee is satisfied that provisions for committees to seek information from Ministers and their staff are adequate.<sup>22</sup> It therefore does not recommend any change.
- 3.38 The Committee echoes the sentiments of an earlier Procedure Committee:
- When formal evidence is received it is important that witnesses feel confident that they will be treated fairly and with respect and that they understand the rights and obligations of both themselves and the committee. ...
- Adopting firm guidelines with the official backing of the House is the first step in ensuring consistent and open practices.<sup>23</sup>
- 3.39 The Committee supports guidance on the treatment of witnesses being formalised by a resolution of the House. This may alleviate some concerns about the treatment of witnesses at public hearings and reaffirm the House's commitment to treating witnesses with fairness and respect.

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**Recommendation 6**

**The Committee recommends that the House, through a motion introduced by the Leader of the House, adopt guidelines for committees' interactions with witnesses, in the terms contained in Appendix E of this report.**

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22 House committees may invite Ministers to attend at a hearing, although many committees have preferred to obtain detailed information from officials within relevant government departments. A 2003 Senate committee report expressed the view that the Parliament already has the power to compel Ministers' staff to attend committee hearings. See: Senate Finance and Public Administration References Committee, *Staff employed under the Members of Parliament (Staff) Act 1984*, October 2003.

23 *It's your house*, pp. 63–4.



## A bridge between Parliament and the public: taking a strategic approach

3.40 An earlier section of this chapter discussed technological reforms for improving the way in which committees obtain information from witnesses. This section considers the House's role in managing its important relationship with the Australian public: a two-way process that involves the House reaching out to the community and informing citizens of its activities; and finding ways in which the House can build dialogues with the community.

### Increasing public awareness of committee work

3.41 Question Time and other high profile features of the House receive a great deal of media attention. Other types of House business, perhaps with a somewhat lower profile or less adversarial in nature, sometimes struggle to attract media attention. This includes the work of House committees.

3.42 Significant time and other resources are dedicated to committee work – both by Members and those outside the Parliament. Many House committee reports have profoundly influenced the public debate on a range of important issues, including:

- child custody and child support, for example the Standing Committee on Family and Community Affairs report, *Every picture tells a story*; and the Joint Select Committee on the Family Law Act – Certain Family Law Issues report, *The Child Support Scheme*;<sup>24</sup>
- maritime safety, for example the Standing Committee on Transport and Regional Services report, *Ships of shame*;<sup>25</sup> and
- health funding, for example the Standing Committee on Health and Ageing report, *The blame game*.<sup>26</sup>

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24 House of Representatives Standing Committee on Family and Community Affairs, *Every picture tells a story: Inquiry into child custody arrangements in the event of family separation*, Parliament of Australia, Canberra, 2003; Joint Select Committee on the Family Law Act – Certain Family Law Issues, *The Child Support Scheme: An examination of the operation and effectiveness of the scheme*, Commonwealth of Australia, Canberra, 1994.

25 House of Representatives Standing Committee on Transport and Regional Services, *Ships of shame: Inquiry into ship safety*, Australian Government Publishing Service, Canberra, 1992.

26 House of Representatives Standing Committee on Health and Ageing, *The blame game: Report on the inquiry into health funding*, Commonwealth of Australia, Canberra, 2006.

- 3.43 The inquiry process also plays an important role in bringing together disparate groups of people to discuss matters of national importance. It is therefore essential that an adequate and appropriate profile be given to committee business in the Chamber and Main Committee.
- 3.44 Committee Chairs and Deputy Chairs were unequivocal about the need to raise the public profile of the House committee system. Members often refer to the excellent work undertaken by House committees and regret their low profile. This is consistent with the findings of two previous Procedure Committee reports, which focussed on promoting community involvement in the work of House committees.<sup>27</sup> Those reports discussed similar issues to those currently being considered by the Committee. The need for community involvement and access is therefore hardly a new principle, but the many new options available to committees – particularly as a result of technological advances – justify a revisit of this matter.
- 3.45 House committee work is an important repository of public policy resources: not only committee reports, but also submissions and transcripts of evidence, which reveal important technical and attitudinal information on public policy issues. It is essential that the House properly preserve these highly valuable resources and continue to make them readily accessible. This may also assist the House in maximising the value of the work of committees.
- 3.46 There was general agreement that the current time for presentation of committee and delegation reports does not assist in this regard. The Committee discusses this further in Chapter 7. In the rest of this section, the Committee considers how addressing the following issues might improve the public profile of the House committee system:
- statements by committee Chairs;
  - parliamentary privilege;
  - promoting committee work; and
  - broadcasting infrastructure.

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27 *It's your House; Promoting community involvement.*

## Statements by committee Chairs

- 3.47 The Committee supports a more comprehensive treatment of committee work in the Chamber. This could be achieved by providing opportunities in the House for short statements by committee Chairs. These statements might inform the House and the public about new inquiries being undertaken. The Committee considers that this would be an effective mechanism for deepening the narrative around committee work in the Chamber, and for providing more accountability and transparency of committee work.

## Recommendation 7

**The Committee recommends that the standing orders be amended to provide for committee Chairs to make short statements during private Members' business time, informing the House of new inquiries being undertaken by the committee. The standing orders should also provide for the whips to allocate the time for each such statement.**

## Parliamentary privilege

- 3.48 Many Members are concerned that parliamentary privilege restrictions prevent them from speaking to the media about committee activities. Members clearly take matters of privilege very seriously and are anxious to ensure that they do not commit an inadvertent breach. While the Committee appreciates this, there appears to be some confusion about what is and is not permissible. The standing orders currently allow committees to disseminate information about their activities in a number of ways, as careful consideration of standing order 242 reveals.
- 3.49 Standing order 242(b) may cause confusion. It reads:
- (b) A committee's or subcommittee's evidence, documents, proceedings and reports may not be disclosed or published to a person (other than a member of the committee or parliamentary employee assigned to the committee) unless they have been:
    - (i) reported to the House; or
    - (ii) authorised by the House, the committee or the subcommittee.

- 3.50 This protects the confidentiality of a committee's documents and proceedings, until such time as the committee has decided they may become public. It ensures that committee conclusions are not pre-empted and committee processes are not otherwise interfered with (thereby possibly undermining the committee's cohesion and effectiveness). Despite part (b) of standing order 242, committee members are free to speak with members of the public, including the press, about evidence that has been authorised for publication by the committee and other matters already in the public domain.
- 3.51 Parts (c) and (d) of standing order 242 give committees a great deal of flexibility:
- (c) A committee may resolve to:
    - (i) publish press releases, discussion papers or other documents, or preliminary findings; or
    - (ii) divulge evidence, documents, proceedings or reports on a confidential basis to persons for comment.
  - (d) A committee may resolve to authorise a member of the committee to give public briefings on matters related to an inquiry. An authorised member may not disclose evidence, documents, proceedings or reports which have not been authorised for publication. The committee shall determine the limits of the authorisation.
- 3.52 The last sentence of part (d) in particular gives committees complete discretion to determine what can and cannot be discussed publicly, and by whom. It requires the agreement of the committee, through a resolution, which is entirely appropriate.

### **Committee conclusions**

- 3.53 Some Members have called for a change to the standing orders that would exclude these restrictions while empowering committees to limit public comment where necessary. The Committee considers this neither necessary nor prudent. The extent to which a committee will be comfortable with its members speaking publicly about its activities will depend on the dynamics of the individual committee, the level of trust and cooperation between members, the nature of the particular inquiry, and other factors. The Committee therefore does not support such a change, and is confident that the current standing orders provide committees with adequate flexibility, while protecting the privacy of witnesses and trust between Members over their deliberations.

- 3.54 It is clear, however, that many Members would benefit from being reminded of the scope and application of standing order 242, and the Committee suggests that the DHR's ongoing program of information sessions for Members could be an appropriate forum for this.

### **Promoting committee work**

- 3.55 The importance of facilitating input from the community was discussed earlier in this chapter. This section is concerned with how the House reaches out to the public and promotes the work of its committees.
- 3.56 The difficulty in attracting attention for cooperative committee work was highlighted by Dr Phil Larkin, who spoke of the nature of media interest in Westminster committee proceedings:

It can be tricky to try to get attention for something that is not a major stoush, basically. ... [T]he place was absolutely packed to the rafters with media. When they realised that the hearing was going to be conducted in a fairly polite and dignified manner, they were gone. ... The government taking a pasting is much more of a headline than the government being told that it is doing an okay job and should carry on along the same lines.<sup>28</sup>

- 3.57 Although this may be true for the mainstream media, the experience has been that many members of the public – once they become aware of the House committee system and its activities – consistently show a high degree of interest in committee work:

... there is a steady demand for parliamentary information. Sometimes people say that people are not interested in parliament, but we are finding that it is quite the opposite. There is not a week goes by that we do not get an email request for the magazine, a copy of the TV show and a subscription to the email alert service. ... The suggestion that people are not interested in parliament is not something that exists anymore. People are really interested.<sup>29</sup>

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28 Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 6.

29 Mr A. Lomp, Department of the House of Representatives, *Transcript of evidence*, 29 October 2009, p. 13.

3.58 The public response to the creation of Australia's Public Affairs Channel (A-PAC) reinforces this view:

There is a real hunger amongst Australians, as I think we have demonstrated with our live coverage of the community cabinets, to have greater exposure to the democratic process.<sup>30</sup>

### **Committee conclusions**

3.59 Along with many of its colleagues, the Committee is very supportive of the DHR's outreach efforts to better inform the public of the work of House committees, including:

- the free *About The House* magazine, which has a circulation of about 80,000 readers;
- the *About the House* television segments and website;<sup>31</sup>
- an e-mail alert system;
- a media advisory service for committees supported by the House;<sup>32</sup> and
- its contribution to the Parliamentary Education Office.<sup>33</sup>

3.60 This work is commendable, and should continue. Of course, this depends on sufficient resources being available. The Committee is concerned that the budgetary pressures discussed by the DHR may affect the resources for promoting committee inquiries in future.<sup>34</sup>

### **Broadcasting infrastructure**

3.61 Related to the DHR's promotional activities is the availability of footage of committee proceedings. The Committee was pleased to hear about the improved availability of footage as a result of the establishment of A-PAC and the DHR's *About The House* television segments and website.

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30 Mr A. Frangopoulos, Australian News Channel Pty Ltd, *Transcript of evidence*, 29 October 2009, p. 4.

31 The website is at: <[http://www.aph.gov.au/house/house\\_news/index.asp](http://www.aph.gov.au/house/house_news/index.asp)>.

32 Mr A. Lomp, Department of the House of Representatives, *Transcript of evidence*, 29 October 2009, p. 3.

33 The Parliamentary Education Office is jointly funded by the DHR and the Department of the Senate, and administered by the latter. Department of the House of Representatives, *Annual report 2008–09*, p. 27.

34 Department of the House of Representatives, *Submission No. 6*, p. 14. The issue of resources (including, amongst other things, resources for outreach activities) was considered by the Committee in Chapter 2.

- 3.62 The positive response to committee footage on A-PAC is heartening and illustrates the considerable community demand for more information about the Parliament. The Committee had some initial reservations about the accessibility of A-PAC, given that it is not available on free-to-air television. However, its free availability online through the A-PAC website is welcomed.<sup>35</sup>
- 3.63 Members of the public are similarly able to access video clips of committee proceedings and *About The House* television segments through the DHR's website.<sup>36</sup> Although there are funding constraints, the DHR's outreach activities have at times extended to travelling with committees and filming interstate public hearings, as well as interviewing witnesses about their experiences.
- 3.64 Both A-PAC and the DHR have noted, however, that not every committee room in Parliament House has a permanent video camera, and that this compromises the number of hearings that can be broadcast and webcast.<sup>37</sup>

### Committee conclusions

- 3.65 A-PAC<sup>38</sup> and the DHR perform valuable services for the community, particularly by making the House more accessible. Parliament needs to carefully consider its infrastructure and meeting room accessibility to best respond to current and future community demand for footage of House committee proceedings.

## Recommendation 8

**The Committee recommends that the Speaker investigate the adequacy of the infrastructure available for audiovisual recording and broadcasting committee proceedings within Parliament House and for the development of low cost audio-visual recording of interstate public hearings.**

35 Mr A. Frangopoulos, Australian News Channel Pty Ltd, *Transcript of evidence*, 29 October 2009, pp. 1, 9.

36 Mr A. Lomp, Department of the House of Representatives, *Transcript of evidence*, 29 October 2009, p. 9.

37 Mr A. Frangopoulos, Australian News Channel Pty Ltd, *Transcript of evidence*, 29 October 2009, p. 17; Mr A. Lomp, Department of the House of Representatives, *Transcript of evidence*, 29 October 2009, pp. 14, 16.

38 Through the footage created and distributed by the Department of Parliamentary Services.

## Managing the Parliament's relationship with the public

- 3.66 Over the years, the Parliament has taken steps to manage its important relationship with the public.<sup>39</sup> This has largely focussed on 'taking Parliament to the people', such as the promotional work discussed above and safeguarding how images of the Parliament are conveyed to the public.<sup>40</sup>
- 3.67 Equally important is ensuring that the public has a place within the Parliament and its activities. As the interface between the community's elected representatives (representative democracy) and members of the community themselves (participatory democracy), House committees have a particularly important role.
- 3.68 In the past, House committees have given the community a voice by seeking written submissions and inviting some witnesses to give evidence orally at public hearings. Emerging technologies – such as social networking sites, communications technologies, new media, and Web 2.0<sup>41</sup> – may provide an opportunity for House committees to better engage with the public and to build dialogues, rather than the one-way communication that may characterise the collection of evidence and the presentation of committee findings in a published report.

### Committee conclusions

- 3.69 While traditional methods of seeking community input have their place, it is also appropriate for House committees to facilitate communication with interested citizens. The House must pursue technologies to improve public access to committees. This might include making it easier for people to:
- 'have their say' on current inquiries or reports published by committees;
  - follow committee proceedings, including public hearings; and
  - generally interact with committees.

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39 Relevant Procedure Committee inquiries include: *It's your house*; *Promoting community involvement*; and *Media coverage*.

40 The Joint Committee on the Broadcasting of Parliamentary Proceedings is a statutory committee responsible for regulating the broadcast of proceedings of the House of Representatives and the Senate.

41 See, for example: Government 2.0 Taskforce, *Engage – Getting on with Government 2.0*, Australian Government, Canberra, 2009. The Australian Youth Forum also provides some good examples of new media and information and communication technologies being used to create a dialogue. See: <<http://www.youth.gov.au/ayf>>.



- 3.70 Some House committees have responded well to emerging technologies, including the use of online surveys and questionnaires, social networking tools and webcasts. Some also provide their members with an ongoing briefing program, independent of inquiry activities, to keep members informed of developments in relevant subject areas.
- 3.71 These responses have been somewhat *ad hoc* and reactive, rather than strategic. The Committee also notes that many initiatives that have improved the accessibility of House committees – such as the DHR’s outreach efforts and the broadcasting of committee proceedings through A-PAC – have largely been driven by interventions external to the House itself. The House must drive change and manage the adoption of interactive technologies, particularly as they are used to engage with, and seek input from, the community.
- 3.72 The Committee sees a role for itself in monitoring committees’ adoption of new technologies, and ensuring that the practices and procedures of the House accommodate this progress. It notes that its terms of reference, set out in standing order 221, would allow this.<sup>42</sup>
- 3.73 The Committee also suggests that there is a role for the Liaison Committee of Chairs and Deputy Chairs in keeping Members informed of emerging technologies and any issues that may be encountered by committees seeking to use them.

### **Recommendation 9**

**The Committee recommends that the Liaison Committee of Chairs and Deputy Chairs broaden its role to include advising Chairs and Deputy Chairs of emerging technologies that may be used in the conduct of committee inquiries, and any issues that committees may encounter in seeking to make use of these technologies. The Liaison Committee might include new technologies as a standing agenda item, to enable monitoring and advice to be provided on emerging technologies.**

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42 Standing order 221 states the role of the Procedure Committee as being ‘to inquire into and report on the practices and procedures of the House and its committees’.



## 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.<sup>1</sup> Similarly,

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<sup>1</sup> Dr P. Larkin, *Submission No. 14*, p. 6.

the Business Committee of the New Zealand Parliament appoints members to committees.<sup>2</sup>

### 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.<sup>3</sup>
- 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.

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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](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.<sup>4</sup> 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.<sup>5</sup>
- 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.<sup>6</sup>
- 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.<sup>7</sup> Members with shadow responsibilities would still be able to join a committee for a particular inquiry as a supplementary member.

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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.<sup>8</sup> Professor Ian Marsh concurs that there may be some benefit in Parliamentary Secretaries being eligible for committee membership on an *ad hoc* basis.<sup>9</sup>

### 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.

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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.<sup>10</sup>

#### **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.

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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.<sup>11</sup> There are currently 115 Members available to serve on committees, *including* shadow spokespersons.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup>

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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.

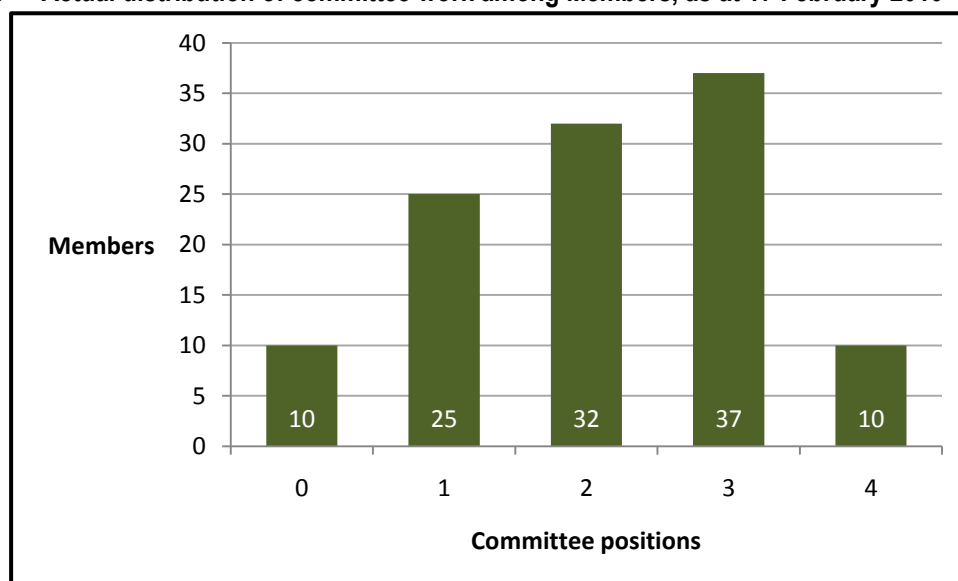
14 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2.

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.<sup>16</sup>

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.<sup>17</sup>

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.<sup>18</sup> The imbalance may also reflect the

<sup>16</sup> 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.

<sup>17</sup> Detailed statistics relating to committee positions are available in Appendix F.

<sup>18</sup> 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.<sup>19</sup>
- 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.<sup>20</sup>

### **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

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

**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.<sup>21</sup>

**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.<sup>22</sup> 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.<sup>23</sup> Relativities with Senate committees<sup>24</sup> 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.<sup>25</sup> 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.<sup>26</sup>

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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.<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup>

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.

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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.<sup>30</sup>
- 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.

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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.<sup>31</sup>

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.

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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.<sup>32</sup> The Joint Committee of Public Accounts and Audit has the power to appoint sectional committees.<sup>33</sup> 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.

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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.<sup>34</sup> 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’.<sup>35</sup>

### 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.<sup>36</sup> 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.

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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 chapter<sup>37</sup> 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 meeting<sup>38</sup> and representing the committee as a member of the Aboriginal and Torres Strait Islander Affairs (ATSIA) committee.<sup>39</sup> 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.

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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.<sup>40</sup> 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. ...<sup>41</sup>

### **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.<sup>42</sup> 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

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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.<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup>

### 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.<sup>46</sup> Complemented by a number of joint committees, the current subject coverage of House committees allows scrutiny of all aspects of government policy and administration.<sup>47</sup>
- 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.<sup>48</sup> This is considered a strength, enabling the committee system to better monitor government policies and actions.<sup>49</sup>
- 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

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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.<sup>50</sup>

**Table 4.2 Ministerial portfolios and House committees**

House general purpose standing committee	Main government department(s) <sup>a</sup>
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 <sup>a</sup>			Overall reduction in committee positions	Positions per available Member <sup>b</sup>		
	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**

<b>Proposed committee</b>	<b>Proposed area of responsibility</b>	
	<i>Current committee(s)</i>	<i>Main government department(s)</i>
Aboriginal and Torres Strait Islander Affairs <sup>1</sup>	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 <sup>2</sup>	Environment, Water, Heritage and the Arts
Health	Health and Ageing	Health and Ageing
Infrastructure and Population <sup>2</sup>	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.<sup>51</sup> 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.<sup>52</sup>

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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.<sup>53</sup> 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.<sup>54</sup>

## 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.

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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;<sup>55</sup>
- 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.<sup>56</sup> 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

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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.<sup>57</sup> All joint committees should also be assessed to ensure their ongoing relevance, for example, the Joint Standing Committee on Migration (JSCOM)<sup>58</sup> 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.<sup>59</sup> 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.**

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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.<sup>60</sup>

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.<sup>61</sup> 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

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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](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.<sup>62</sup>

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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.<sup>63</sup>
- 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.<sup>64</sup> 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.<sup>65</sup>
- 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.<sup>66</sup>

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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](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.<sup>67</sup> 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.<sup>68</sup> 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.<sup>69</sup>

### Committee conclusions

4.96 Given the historically low number of Indigenous Members of the House<sup>70</sup>, 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.<sup>71</sup> This would give the ATSI Committee a greatly improved oversight capacity and

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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.<sup>72</sup>

## 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.<sup>73</sup> All parliamentary committees have a responsibility for considering issues of gender equality within their particular policy areas.<sup>74</sup> 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.<sup>75</sup> 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.<sup>76</sup>

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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](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.<sup>77</sup> Professor Lindell's preference for a joint committee<sup>78</sup> 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.<sup>79</sup>
- 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.

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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.<sup>80</sup> 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.<sup>81</sup>

### **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 Friday<sup>82</sup> 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.<sup>83</sup> 38 reports have been debated outside the Monday evening timeslots (81 per cent of all debates on committee and delegation reports).<sup>84</sup>

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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.



## Powers and operations

- 5.1 One of the determinants of a committee's effectiveness is the powers it has to carry out its business. Some evidence to the inquiry has suggested that the powers of House committees are relatively weak, particularly compared with those in Parliaments overseas.
- 5.2 The existing powers of committees are outlined briefly in the first part of this chapter. In the next section, the Committee considers and presents its conclusions on proposals that may strengthen committee powers, or give committees additional powers.

### Existing powers

- 5.3 The powers explicitly granted to a committee by the standing orders include those to:
- conduct proceedings, using means approved by the House, at any time or place, and whether or not the House is sitting;<sup>1</sup>
  - call witnesses and require that documents be produced;<sup>2</sup>
  - consider and make use of the evidence and records of similar committees appointed during previous Parliaments;<sup>3</sup>
  - confer with a similar committee of the Senate;<sup>4</sup>
  - authorise publication of any evidence given before it or documents presented to it;<sup>5</sup> and

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1 Standing order 235.

2 Standing order 236.

3 Standing order 237.

4 Standing order 238.

- report from time to time.<sup>6</sup>

5.4 These formal powers significantly contribute to the effectiveness of House committees, allowing them to undertake work in a way that the Chamber cannot. The extent to which these *formal* powers are used, and the range of *informal* powers committees do use, must also be taken into account. Dr Phil Larkin notes that focusing solely on formal powers can be misleading:

A noted study by Lees and Shaw comparing the committee systems of eight national legislatures found that, whilst the committees in Japan and the USA had near identical formal powers, committees in Japan were the weakest in their study and the USA's the strongest.<sup>7</sup>

5.5 For example, inquiry terms of reference are referred to committees by the House or the relevant Minister. In practice, however, the parameters of inquiries are usually negotiated between the committee and relevant Minister, giving the committee some flexibility in determining its work program. House general purpose standing committees may also inquire into relevant annual or audit reports, as part of the scrutiny and accountability process. These inquiries also have:

... a secondary purpose in providing a mechanism by which a committee may conduct an inquiry where a minister may be reluctant to refer a particular matter to a committee for investigation.<sup>8</sup>

5.6 Therefore, House committees have a range of powers that assist them in carrying out their important policy investigative, scrutiny, and other functions. Despite this, Dr Larkin asserts that:

... House committees' powers – both formal and as utilised in practice – are weak in comparison with similar parliaments.<sup>9</sup>

5.7 Consistent with this view, the Committee has received some evidence in support of strengthening the formal powers of committees in general, and of the Joint Standing Committee on Treaties (JSCOT) in particular. These are discussed below.

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5 Standing order 242.

6 Standing order 243.

7 Dr P. Larkin, *Submission No. 14*, p. 9.

8 Department of the House of Representatives, *Submission No. 6*, p. 2.

9 Dr P. Larkin, *Submission No. 14*, p. 2.



## Consolidating and extending committee powers

- 5.8 In this section, the Committee considers a number of proposals aimed at strengthening the powers of committees, including those relating to:
- initiating inquiries;
  - legislative involvement;
  - the referral of and inquiry into petitions;
  - conferring with Senate committees;
  - accessing and amending records from previous Parliaments; and
  - the Joint Standing Committee on Treaties, in particular.
- 5.9 First, however, the Committee discusses how committee powers may need to be reconsidered as a result of the adoption of new technologies.

## Committee powers and new technology

- 5.10 In Chapter 3, the Committee suggested that modern technologies give the House an opportunity to engage with the community in new ways, extending the operation of committees where appropriate to dialogue and interaction. Certainly, these new ways of interacting with the public will have resource implications, given the learning curve it would involve for Members and support staff. However, the adequacy of committee powers is another issue given consideration in this chapter.
- 5.11 While standing order 235 gives committees very broad scope to conduct their proceedings as they consider appropriate<sup>10</sup>, the Committee considered whether movement into more interactive ways of working would require an extension of these powers to allow for more flexibility and speed. The Committee also considered whether the application of parliamentary privilege would need to be adjusted to deal with these new ways of engaging with the public.

## Committee conclusions

- 5.12 The customs and practices associated with parliamentary privilege are well established. Where committee work is protected by parliamentary privilege, the same care that committees currently display in handling printed evidence must apply in all formats. The Committee notes that

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10 Standing order 235 provides, among other things, for a committee or subcommittee to 'conduct proceedings using any means approved by the House', including private meetings, hearing witnesses in public or private, or 'any other meeting, discussion or inspection conducted under the practice of committees of the House.'

committees have managed matters of privilege as they relate to less formal proceedings – such as informal discussions, public meetings, telephone hotlines and workshops – and the use of internet-based technologies.

- 5.13 Many of the new methods of operation envisaged for committees could be enabled under the current practices and procedures of the House, especially given the extensive committee discretion provided by standing order 235. Powers and practices may need to be adjusted to enable committees to respond as quickly as necessary. As these new types of committee work evolve over coming years and their full effects become known, it will be necessary for the House revisit relevant standing orders. The Committee therefore does not, at this time, recommend a change in committee powers, but affirms its commitment to monitoring these issues as they develop.

### Initiating inquiries

- 5.14 The Committee has heard extensive evidence supporting committees having the power to initiate their own references.<sup>11</sup> Although House committees have some influence over their work programs<sup>12</sup>, Dr Larkin notes that the committees of comparable parliaments have considerably more freedom:

In relying on references from the main chamber or a minister, House of Representatives' Standing Committees are unusual in not having control over the issues they examine or the timescale of any inquiry.<sup>13</sup>

- 5.15 One submission claims that committees are not given adequate time to investigate detailed and complex issues.<sup>14</sup> Associate Professor Simon Rice and Dr Matthew Rimmer cite examples of inquiries of the JSCOT and the Legal and Constitutional Affairs (LACA) Committee they regard as being unduly affected by tight reporting deadlines.<sup>15</sup> This may be because general purpose standing committees technically cannot initiate their own inquiries and, therefore, may have little control over the timeframe of inquiries and reporting deadlines. However, in practical terms, many

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11 Department of the House of Representatives, *Submission No. 6*, pp. 2–3; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2; Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 5.

12 By virtue of negotiations with the Minister prior to receiving a reference, and the standing option to conduct inquiries into annual and audit reports, as described earlier this chapter.

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

14 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, pp. 4–5.

15 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, pp. 4–5.

Chairs already help determine the parameters of inquiries through discussions with the relevant Minister or by initiation inquiries into annual and audit reports.

### Committee conclusions

- 5.16 The Committee did not receive any other evidence specifically relating to timeframes and their impact on the effectiveness of committee inquiries. Rather, the concerns expressed by its colleagues focussed more on how committee work might be more successfully integrated into the work of the House. The Committee considers this in Chapters 2 and 7.
- 5.17 While noting the current flexibilities and informal powers available to committees, the Committee favours formally allowing House general purpose standing committees to initiate their own inquiries.<sup>16</sup> Self-initiated inquiries allow committees to respond to issues as they arise or are brought to their attention. They also allow committees to determine their own priorities. This is consistent with the conclusion reached by the Procedure Committee in 1998:
- There appears to be little justification to deny committees the right to initiate their own inquiries.<sup>17</sup>
- 5.18 In light of the characteristics of the House and the cooperative nature of its committee work, the Committee does not accept any suggestion that self-initiated inquiries would necessarily be disruptive or be used in a politically-motivated way. It is more likely that policy-focussed inquiries will continue to dominate the work of House committees, given the culture of the institution and the preference of most Members. Self-initiated inquiries would simply facilitate House committees' ability to respond to emerging issues as required.
- 5.19 The Committee acknowledges that, given the large number of House, joint and Senate committees, an inquiry carried out by one committee might overlap with or be relevant to another committee's area of responsibility. This may be exacerbated if committees are given the power to initiate their own references.
- 5.20 All current inquiries by House and joint committees are listed in the House *Notice Paper*.<sup>18</sup> This an appropriate way for committees to stay informed of new inquiries. The current process of Ministers referring

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16 Some House committees, including the Procedure Committee, currently have this power.

17 *Ten years on*, p. 15.

18 See *Notice Papers* at: <<http://www.aph.gov.au/house/info/notpaper/index.htm>>. Committee membership and current inquiries are listed at the back of each day's *Notice Paper*.

inquiries to committees also minimises the potential for duplication. However, there may be merit in Chairs immediately informing their colleagues of new inquiries, perhaps by way of a brief letter. This would be particularly pertinent if committees are given the power to initiate their own inquiries. The Committee does not recommend any changes to the House's formal practices and procedures at this time, but asks that committee Chairs continue their informal commitment to keeping their colleagues informed of new inquiries.

- 5.21 The Committee does not suggest the discontinuation of references by the House or Ministers. Rather, these mechanisms would complement one another. Furthermore, the Committee's support for self-initiated inquiries stems from a desire to have formal powers reflect the practical reality that committees can currently exercise some control over their work programs, by conducting inquiries into annual and audit reports and by negotiating terms of reference with Ministers.
- 5.22 The Committee limits its recommendation to general purpose standing committees. Many domestic committees already have the power to initiate their own inquiries, and any adjustments to the powers of joint committees would require negotiation with the Senate.

### **Recommendation 19**

**The Committee recommends that general purpose standing committees be given the power to initiate their own inquiries, and that any disputes between committees over policy coverage continue to be resolved by the Speaker.**

## **Committees and the legislative process**

- 5.23 As discussed in Chapter 6, House committees do not regularly inquire into bills. Not only are committees of legislatures outside Australia more frequently involved in the legislative process, but the extent of their involvement can also be more considerable. House committees, following an inquiry into a bill, are able to recommend amendments that the government may choose to move as (government) amendments.<sup>19</sup>

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19 This was the process that applied to the first instance of legislation being considered by a House committee – the inquiry by the Standing Committee on Legal and Constitutional Affairs into the Crimes (Child Sex Tourism) Amendment Bill 1994. See [http://www.aph.gov.au/house/committee/reports/1994/1994\\_PP90.pdf](http://www.aph.gov.au/house/committee/reports/1994/1994_PP90.pdf) for a copy of the report. For details of the presentation of the government response and subsequent amendments to the bill, see H.R. Deb. (29.6.1994) 2344–65. This process also applied to the

- 5.24 By contrast, committees in many other parliaments, including in Canada and New Zealand, have the power to amend proposed legislation.<sup>20</sup> The power of committees in some parliaments, including in Canada and Scotland, is more significant still: committees may initiate legislation themselves.<sup>21</sup>
- 5.25 Associate Professor Rice and Dr Rimmer argue that the ability to act independently of the executive by introducing legislative proposals signals a strong agenda setting role for committee systems in policymaking.<sup>22</sup> They therefore advocate House committees being given the power to initiate legislation, a proposal also supported by the Hon. Kevin Rozzoli:
- The ability to act independent of the executive by introducing legislative proposals signals a strong agenda setting role for committee systems in policymaking.<sup>23</sup>

### Committee conclusions

- 5.26 The Committee is mindful of structural and cultural factors that may explain the discrepancy between the legislative involvement of committees of the House and of other parliaments. The New Zealand Parliament, for instance, is unicameral. Its committees therefore take on some of the functions that a second chamber might ordinarily undertake, such as reviewing legislation. The same explanation could apply to the unicameral Scottish Parliament. The nature of legislation could also have

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most recent bill inquiry, carried out by the Standing Committee on Climate Change, Water, Environment and the Arts, into the Resale Royalty Right for Visual Artists Bill 2008. The report is available on the committee's website, at:

<<http://www.aph.gov.au/house/committee/ccwea/resaleroyalty/report.htm>>; and the government response is available at:

<<http://www.aph.gov.au/house/committee/ccwea/resaleroyalty/response/Resale%20Royalty%20Right%20for%20Visual%20Artists%20Bill%202008.pdf>>. Details of subsequent amendments to the bill are at H.R. Deb. (7.9.2009) 8793–800.

- 20 Other countries where this power is in use include: Austria, Belgium, Czech Republic, Denmark, Estonia, France, Germany, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. S Martin, *Explaining variation in the strength of parliamentary committees*, p. 31, viewed 3 August 2009, at: <<http://webpages.dcu.ie/~martins/committees1.pdf>>. Cited in: Associate Professor S. Rice and Dr M. Rimmer, *Submission No. 11*, p. 6.
- 21 Dr P. Larkin, *Submission No. 14*, p. 8; Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 4; S Martin, *Explaining variation in the strength of parliamentary committees*, p. 31, viewed 18 December 2009, at: <<http://webpages.dcu.ie/~martins/committees1.pdf>>.
- 22 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, p. 6.
- 23 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, p. 6. See also: The Hon. K. Rozzoli AM, *Submission No. 2*, p. 7.

an impact: the Australian Parliament tends to deal with many more small amendment bills, while the UK Parliament tends to consider fewer, more substantial bills.<sup>24</sup>

- 5.27 The effectiveness of any reform to a committee system needs to account for the context and culture of the parliament in which it is introduced.<sup>25</sup> It is unclear how committee-initiated legislation would operate in the Australian context, and how this might interact with the accepted prerogatives of executive government. It may be better for the House to first focus on addressing the historical infrequency of bills inquiries, before expanding the legislative role of committees.
- 5.28 For these reasons, and in the absence of further evidence, the Committee does not at this time support House committees being given the power to initiate or amend legislation.

### **Petitions: responses and inquiries**

- 5.29 House committees may inquire into any petition (or any other matter) referred to them by the House or a Minister.<sup>26</sup> In practice, however, petitions inquiries very rarely occur. In the 42nd Parliament, the House established a Petitions Committee as part of a new petitioning process.<sup>27</sup> The committee has very actively referred petitions to Ministers for response, and has also inquired into petitions from time to time. It does not, however, have the power to refer petitions to other committees of the House.
- 5.30 In contrast, the Public Petitions Committee of the Scottish Parliament, on which the House's committee was modelled to some extent, has a substantial role in considering the content of petitions and determining what further action, if any, should be taken.<sup>28</sup> The committee may refer a petition to the relevant parliamentary committee for further inquiry, or bid for time to have it considered in the main chamber. All committees in the Scottish Parliament are therefore more involved in the petitioning process than are House committees.

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24 Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 4.

25 Dr P. Larkin, *Submission No. 14*.

26 Standing order 215(b).

27 Standing order 220 establishes the committee; Sessional orders 207 and 209 set out new procedures relating to the presentation and referral of petitions.

28 The Scottish Parliament, *How to submit a public petition*, viewed 18 December 2009, at: <http://www.scottish.parliament.uk/vli/publicInfo/documents/Howtosubmitapublicpetition.pdf>.

- 5.31 In Chapter 6, the Committee considers further the relative merits of House committees being more involved in inquiring into petitions, and whether there is any role for the Petitions Committee in bringing about such a change.

### **Enhancing cooperation: conferring with Senate committees**

- 5.32 Under the current standing orders, House committees may confer with their equivalent in the Senate. Standing order 238 currently reads:

**238 Conferring with Senate committees**

A committee may confer with a similar committee of the Senate.

- 5.33 Currently, this power is not widely used – at least not by general purpose standing committees. Some domestic committees have conferred with Senate committees more often. For example, the House Publications Committee regularly meets in conference with the Senate Publications Committee to select documents for inclusion in the Parliamentary Papers Series.<sup>29</sup> When it has met in conference with its Senate counterpart, the House Publications Committee has also:

... inquire[d] into and report[ed] on the publication and distribution of parliamentary and government publications and on matters referred to it by a Minister.<sup>30</sup>

Similarly, the Library Committees of the House and Senate used to meet in conference regularly, before being replaced by a joint standing committee established by resolution of both houses.<sup>31</sup>

- 5.34 The LACA Committee acknowledges that the use of the ‘conference’ provision is largely unexplored and suggests that the scope of cooperation between House and Senate committees is undefined.<sup>32</sup> Perhaps the infrequent use of standing order 238 can be explained by the lack of clarity about its scope.

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29 *H.R. Practice*, p. 597.

30 As provided for by standing order 219.

31 Joint Standing Committee on the Parliamentary Library, *Committee establishment, role and history*, viewed 5 January 2010, at:

<<http://www.aph.gov.au/house/committee/jscpl/role.htm>>.

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

### Committee conclusions

- 5.35 The LACA Committee and Professor Marsh support enhancing cooperation between House and Senate committees, including joint inquiries.<sup>33</sup> In the previous chapter, the Committee noted that the provisions of standing order 238, concerning the power of House committees to confer with their Senate counterparts, may benefit from further clarification.
- 5.36 Committees may benefit from meeting informally with their Senate counterparts to discuss relevant issues, or meeting jointly to receive a briefing or gather evidence. This can also be an effective tool to avoid the unnecessary duplication of other committees' efforts.
- 5.37 In the Committee's view, standing order 238, as it currently stands, does not extend to joint inquiries. Indeed, House and Senate committees may take different approaches and have different areas of focus, perhaps reflecting their different compositions and traditions, so there may be some benefit to committees conducting separate inquiries into similar matters. Of course, none of this precludes the House and Senate resolving to refer a matter to a joint select committee comprising members of certain committees from both houses.

### Recommendation 20

**The Committee recommends that standing order 238 be amended to read:**

**238 Conferring with Senate committees**

**A committee may confer with a similar committee of the Senate to discuss relevant issues, receive briefings or gather evidence to an inquiry.**

### Building on the work of previous Parliaments

- 5.38 House committees start operating when Members are appointed to them at the beginning of a Parliament, and cease to exist only upon dissolution or expiry of the House.<sup>34</sup> Usually, a House standing committee is reappointed by the standing orders at the beginning of the next Parliament but, even if that committee has identical terms of reference,

33 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2; Professor I. Marsh, *Submission No. 13*, p. 4.

34 *H.R. Practice*, p. 631.



powers and title, it is in fact considered a different committee.<sup>35</sup> For this reason, the standing orders authorise House committees to have access to the records of, and evidence taken by, the previous committees:

**237 Use of records of previous committees**

A committee or subcommittee may consider and make use of the evidence and records of similar committees appointed during previous Parliaments.<sup>36</sup>

- 5.39 The DHR questions the clarity of standing order 237. One interpretation suggests that committees have *access* to records of previous committees, but may not *alter the status* of records.<sup>37</sup> This raises difficulties where, for example, a committee wishes to alter the public accessibility of a previous committee's evidence.<sup>38</sup> A committee is currently able to change the status of records from within its own term of appointment.

**Committee conclusions**

- 5.40 The Committee favours standing order 237 being clarified to affirm the power of committees to alter the public accessibility of a previous committee's evidence. If they consider such action to be appropriate, committees should be able to respond to requests from previous witnesses and those named in submissions to remove submissions from their websites.
- 5.41 The Committee is confident that such powers would be used appropriately, but notes that such a power could be used to make previously private records publicly accessible. For this reason, the Committee suggests the inclusion of a safeguard: the requirement for the Speaker's approval before any records are changed.

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35 *H.R. Practice*, p. 632.

36 Standing order 237. As stipulated by standing order 242, such records and evidence would otherwise be considered private.

37 Department of the House of Representatives, *Submission No. 6*, p. 11.

38 For example, the Committee may wish to remove from its website a submission to an inquiry conducted in a previous Parliament, following a request from the author or a person referred to in the submission.

## Recommendation 21

The Committee recommends that standing order 237 be amended as follows:

### 237 Use of records of previous committees

A committee or a subcommittee may consider and make use of the evidence and records of similar committees appointed during previous Parliaments. A committee may, with the prior consent of the Speaker, alter the status of such evidence and records.

## Joint Standing Committee on Treaties

- 5.42 Throughout this inquiry, the Committee has received more evidence about the JSCOT than about any other existing committee. Much concerns its potential involvement in an expanded human rights role for the House. This is addressed in Chapter 4, where the committee considers proposals for new committees.
- 5.43 Apart from the proposed human rights involvement, Professor George Williams argues that the current mandate of the JSCOT is insufficient.<sup>39</sup> He suggests the committee have a greater role in ensuring that the executive government cannot unilaterally commit Australia to treaty action. He also suggests expanding JSCOT's role to consider less-than-treaty status instruments, such as memoranda of understanding. Professor Williams also supports the JSCOT being able to inquire into instruments before they are signed by the executive.

### Committee conclusions

- 5.44 The Committee has not received sufficient evidence from other parties that would suggest the powers of the JSCOT in particular are inadequate, or that would justify recommendations for change. Moreover, such a change has not been sought by the JSCOT. Therefore, the Committee does not consider that this is a pressing area for reform at this time.

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39 Professor G. Williams, *Submission No. 1*, p. 2.

## **The various types of committee work**

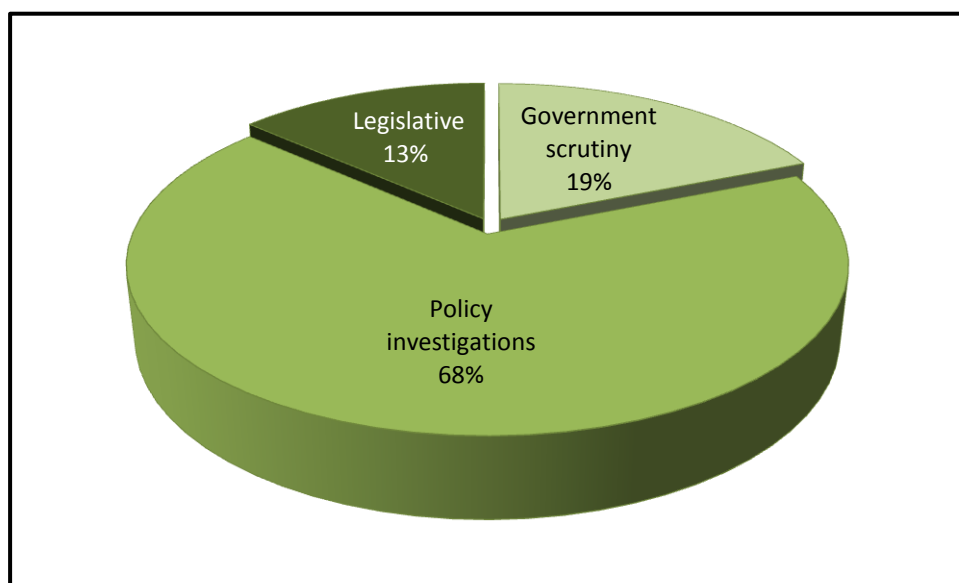
- 6.1 Committees undertake a range of activities and perform a number of different roles. The types of activities are broadly similar between parliaments. However, the emphasis tends to vary from parliament to parliament, depending on the historical and cultural context of the parliament. The functions of the main chamber and the powers given to committees are also relevant in determining what role a committee system will play.
- 6.2 The types of inquiry House of Representatives committees are currently able to carry out may be summarised as follows:
- public policy investigations;
  - scrutinising government;
  - legislative inquiries; and
  - inquiries into petitions.
- 6.3 Each of these is considered in a separate section of this chapter, with reference made to other committee systems where relevant. First, however, a brief comparative overview is provided to given an overall picture of the activities carried out by the House committee system.

## The current balance: the House in context

6.4 The main types of inquiry that House committees currently conduct, and historically have conducted, are:

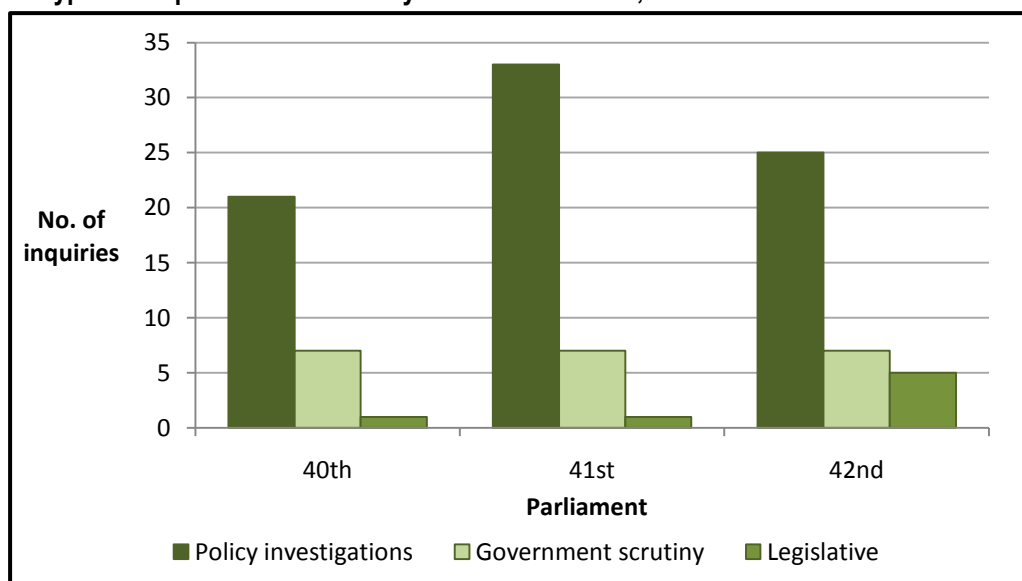
- policy-focussed investigations;
- scrutinising government decisions and actions by inquiring into annual and audit reports; and
- considering pre-legislation proposals and bills.<sup>1</sup>

Figure 6.1 Types of inquiry by House committees, 42nd Parliament



Source *Current and completed inquiries carried out by House of Representatives general purpose standing committees, as at 15 February 2010, as listed on committee websites, at:* [http://www.aph.gov.au/house/committee/comm\\_list.htm](http://www.aph.gov.au/house/committee/comm_list.htm)

<sup>1</sup> For the purposes of this report, 'policy investigations are taken to be those inquiries into matters of public policy, or government programs. An example might include the Standing Committee on Health and Ageing inquiry into obesity in Australia. 'Government scrutiny' inquiries are taken to be those into annual reports or audit reports. Readers should note that such inquiries have the potential to consider policy matters as well. An example might include the Health and Ageing Committee's inquiry into the Department of Health and Ageing's 2006-07 annual report, which was used to conduct a roundtable forum on impotence medications. 'Legislative inquiries' are inquiries into bills or pre-legislation proposals, such as green papers and white papers. Examples include the inquiry into the Resale Royalty Right for Visual Artists Bill 2008, conducted by the Standing Committee on Climate Change, Water, Environment and the Arts.

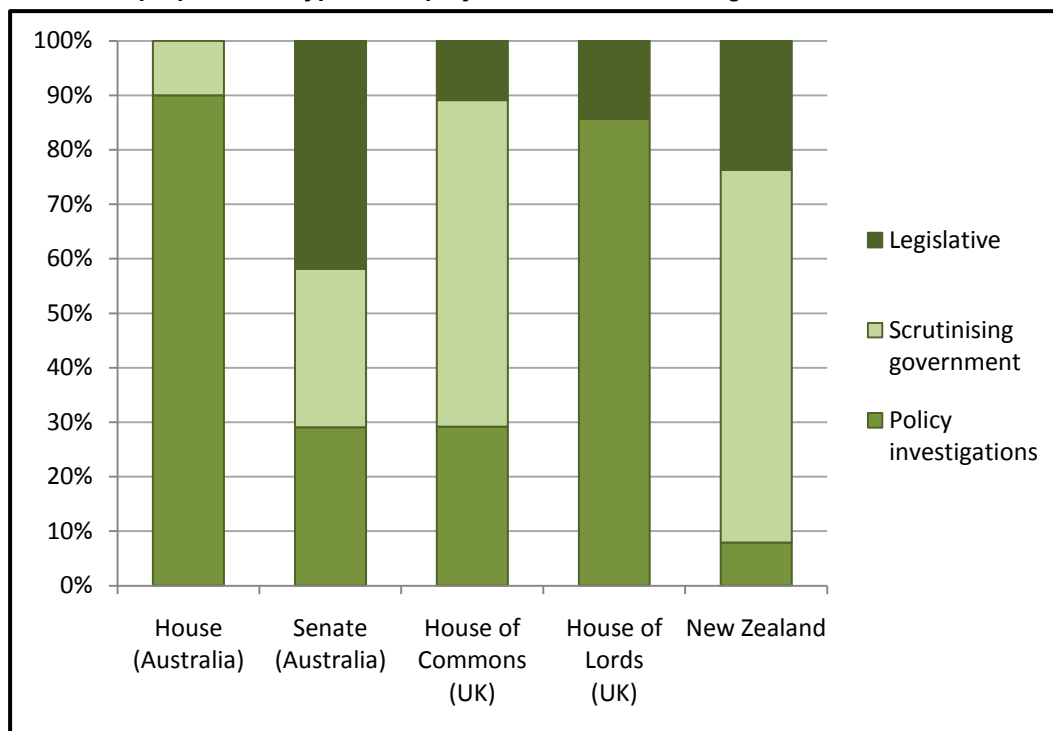
**Figure 6.2** Types of inquiries undertaken by House committees, 40th to 42nd Parliaments

Source Reports tabled by House general purpose standing committees, as listed on committee websites, viewed 13 February 2010, at: <http://www.aph.gov.au>

- 6.5 The focus of House committees tends to be on public policy. As figure 6.1 shows, so far in the 42nd Parliament, more than two thirds of current and completed House committee inquiries may be characterised as ‘policy investigations’.<sup>2</sup> This preponderance of policy work is also reflected in figure 6.2, which provides some historical data.
- 6.6 The emphasis on different types of inquiry varies from parliament to parliament, and this is demonstrated by the ‘snapshot’ survey of inquiries set out in figure 6.3. The House’s activity profile most resembles that of the UK House of Lords, with policy inquiries featuring heavily, supplemented by a smaller number of either scrutiny or legislative inquiries.
- 6.7 Committee systems of the UK House of Commons and the New Zealand House of Representatives both emphasise an accountability role, with moderate amounts of legislative and policy work. The Australian Senate’s emphasis appears to be on legislative inquiries, with moderate levels of scrutiny and policy work.<sup>3</sup>

2 This figure may underestimate the amount of policy work done by House committees, as some of the ‘government scrutiny’ inquiries into annual and audit reports may also consider public policy.

3 The availability of data and time constraints has necessitated taking a ‘snapshot view’ of all active committee inquiries, as listed on parliamentary websites, at a particular point in time. The Committee notes that a full survey of inquiries undertaken over an entire parliament may provide a more representative picture. For instance, the current data excludes Senate committees’ Estimates work, and completed inquiries (for example, legislative inquiries in the House) undertaken earlier in the Parliament.

**Figure 6.3 Current proportion of types of inquiry: Australia, United Kingdom and New Zealand**

Source Current inquiries listed on committee websites, as at 17 February 2010, at: <<http://www.aph.gov.au>>; <<http://www.parliament.uk>>; and <<http://www.parliament.nz>>

6.8 Having noted these differences between committee systems, the remainder of this chapter discusses each type of inquiry that House committees may currently carry out, considering whether there may be merit in fine-tuning the balance of activities.

## Investigating matters of public policy

6.9 House committees tend to focus on carrying out long-term, investigative inquiries into matters of public policy.<sup>4</sup> This is not necessarily true of some other committee systems. For instance, Senate committees tend to focus on matters of accountability more than policy inquiries.<sup>5</sup>

6.10 In discussions with colleagues, the Committee heard that the policy investigation aspect of committee work is particularly valued by Members and is perceived to also benefit the government of the day by providing

4 Department of the House of Representatives, *Submission No. 6*, p. 2; M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, p. 36.

5 M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, p. 36.

input into policy formulation processes, often early in the cycle. Typically, these longer-term investigative inquiries are characterised by a spirit of cooperation, and are focussed on formulating effective solutions to policy problems.

- 6.11 So far in the 42nd Parliament, House committees have completed 25 inquiries that can be considered investigative or policy-focused in nature.<sup>6</sup>

### **Committee conclusions**

- 6.12 The policy aspect of committee work is particularly valued by Members, and there was no suggestion that the number of policy inquiries should be reduced. Nevertheless, throughout the remainder of this chapter, the Committee considers whether there may be merit in adjusting the balance by increasing the number of other types of inquiries.

## **Scrutinising government expenditure and administration**

- 6.13 The work of Senate committees tends to focus on scrutiny of government administration.<sup>7</sup> Senate estimates committees, in particular, receive a great deal of attention for their detailed and sometimes adversarial hearings with Ministers and senior public servants. Similarly, UK House of Commons committees focus strongly on scrutinising the government.
- 6.14 Inquiries referred to House committees tend not to relate to scrutinising government administration or actions, but more to policy formulation. This is not to say that House committees cannot hold the government to account. Although all House general purpose standing committees have the power to conduct inquiries into annual reports of, and Auditor-General's reports relating to, government agencies within their area of responsibility, not many such inquiries have been conducted by them.<sup>8</sup> This may be because committees judge that their other activities should take priority, or because there is no immediate need for such an inquiry.

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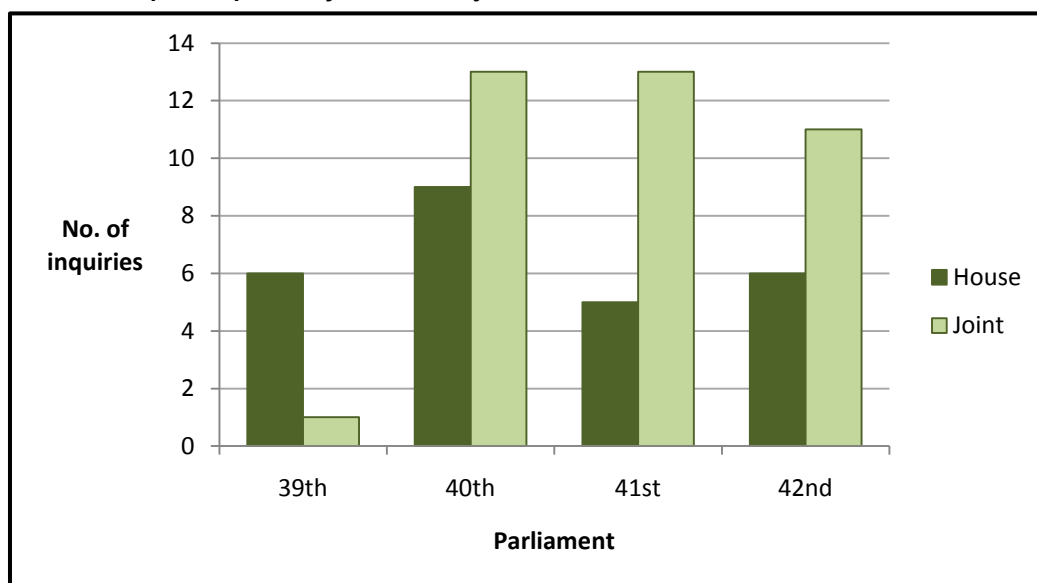
6 Based on committee website listings of reports presented during the 42nd Parliament, as at 13 February 2010.

7 M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, p. 36.

8 This is illustrated in figures 6.1 and 6.3, which show that only 10 to 20 per cent of current and completed House inquiries relate to the scrutiny of annual and audit reports.

- 6.15 Members of the House have an additional role in scrutinising government through scrutiny activities undertaken by joint committees, most notably the Joint Committee of Public Accounts and Audit (JCPAA). Figures 6.4 and 6.5 show the number of regular and *ad hoc* inquiries into annual and audit reports carried out by House and joint committees. The JCPAA's regular inquiries into audit reports are separated out in figure 6.5, illustrating that the activities of the JCPAA account for a significant proportion (96 per cent) of audit report inquiries conducted by all House and joint committees.
- 6.16 Another joint statutory committee, the Public Works Committee, scrutinises all capital projects estimated to cost over \$15 million that the government proposes to carry out. A number of other joint committees also scrutinise government administration through regular inquiries into the annual reports and expenditures of relevant government bodies.<sup>9</sup>

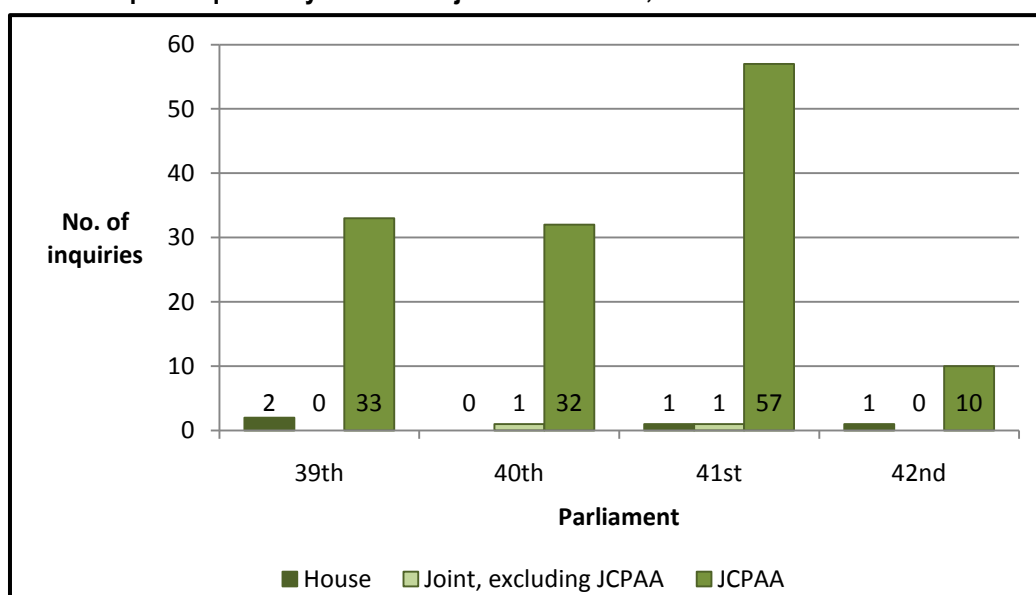
**Figure 6.4 Annual report inquiries by House and joint committees, 39th to 42nd Parliaments**



Source Reports tabled by House general purpose standing committees and joint committees, as listed on committee websites, viewed 15 February 2010, at: <<http://www.aph.gov.au>><sup>10</sup>

- 9 For example: Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity; Parliamentary Joint Committee on the Australian Crime Commission; Parliamentary Joint Committee on Corporations and Financial Services; Parliamentary Joint Committee on Foreign Affairs, Defence and Trade; and Parliamentary Joint Committee on Intelligence and Security.
- 10 Includes reviews of administration and expenditure carried out by the Parliamentary Joint Committee on Intelligence and Security. Includes policy inquiries conducted under a committee's power to inquire into an annual report. 42nd Parliament up to 15 February 2010.



**Figure 6.5 Audit report inquiries by House and joint committees, 39th to 42nd Parliaments**

Source Reports tabled by House general purpose standing committees and joint committees, as listed on committee websites, viewed 15 February 2010, at: <<http://www.aph.gov.au>><sup>11</sup>

### Committee conclusions

6.17 The Committee acknowledges the useful contributions that annual and audit report inquiries make, and would certainly welcome more of these being carried out by House and joint committees. It is not convinced, however, that changes to committees' formal powers – as set out in the standing orders – are necessary. Rather, the Committee suggests that committees may rely on existing provisions to conduct annual and audit report inquiries, as appropriate.

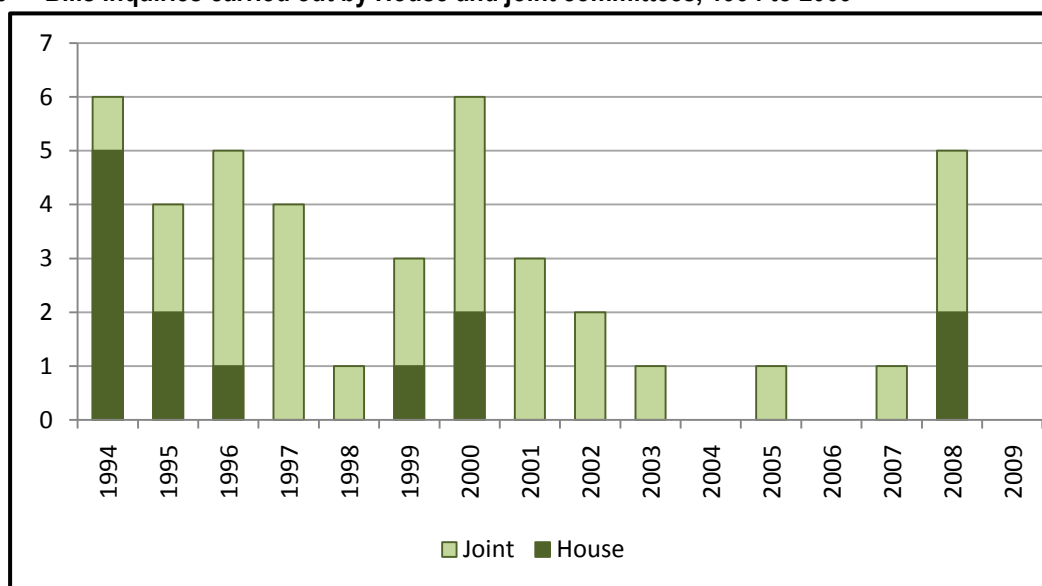
### Legislative inquiries: pre-legislation proposals and bills

6.18 Standing order 215 allows a general purpose standing committee to inquire into and report on any pre-legislation proposal or bill referred to it. This power has existed since the establishment of the committee system in 1987. Historically, however, House committees have had very little involvement in considering legislation or pre-legislation proposals. Such inquiries have only been undertaken since 1994, and there have only been a handful of such inquiries since then.

11 The JCPAA figure for the 41st Parliament includes 25 audit reports inquired into during the 41st Parliament, but tabled at the beginning of the 42nd Parliament.

- 6.19 All bills that have been referred to House committees are listed in table 6.1. Figure 6.6 shows the number of bills inquiries undertaken by House general purpose standing committees. It also illustrates that the legislative contribution of House committees is supplemented by joint committee inquiries, which also involve Members of the House.
- 6.20 By contrast, committees of the Senate, the Parliaments of Scotland and New Zealand, and the UK and Canadian Houses of Commons, are more involved in considering bills and proposed legislation.<sup>12</sup> Automatic referral of bills to committees tends to be the norm in many other parliaments.<sup>13</sup> This is notably the case in the unicameral New Zealand and Scottish Parliaments. These differences are illustrated by figure 6.7, which shows the relative proportion of bills referred to committees in a number of different houses or parliaments.

**Figure 6.6 Bills inquiries carried out by House and joint committees, 1994 to 2009**



Source Department of the House of Representatives, *Submission No. 6*, p. 3; reports tabled by joint committees, as listed on committee websites, viewed 15 February 2010, at: <<http://www.aph.gov.au>>

12 Department of the Senate, *Annual report 2007-08*; M Rodrigues, 'Parliamentary inquiries as a form of policy evaluation', *Australasian Parliamentary Review*, vol. 23, no. 1, p. 36; The Hon. K. Rozzoli AM, *Submission No. 2*, pp. 10-12; Professor I. Marsh, *Submission No. 13*, pp 2-3; Dr P. Larkin, *Submission No. 14*, p. 8.

13 Dr P. Larkin, *Submission No. 14*, p. 8; The Hon. K. Rozzoli AM, *Submission No. 2*, p. 8.

**Table 6.1 Bills referred to House committees, 1994 to present**

Year	House standing committee	Bill <sup>1</sup>
1994	Legal and Constitutional Affairs	Crimes (Child Sex Tourism) Amendment Bill 1994
1994	Legal and Constitutional Affairs	Employment Services Bill 1994 Employment Services (Consequential Amendments) Bill 1994
1994	Legal and Constitutional Affairs	International War Crimes Tribunal Bill 1994 International War Crimes Tribunal (Consequential Amendments) Bill 1994
1994	Legal and Constitutional Affairs	Legislative Instruments Bill 1994
1994	Industry, Science and Technology	Trade Practices Amendment (Origin Labelling) Bill 1994
1995	Transport, Communications and Infrastructure	Civil Aviation Legislation Amendment Bill 1995 Air Services Bill 1995
1995	Transport, Communications and Infrastructure	Sydney Airport Curfew (Air Navigation Amendment) Bill 1995
1996	Legal and Constitutional Affairs	International Transfer of Prisoners Bill 1996
1999	Legal and Constitutional Affairs	Copyright Amendment (Digital Agenda) Bill 1999
2000	Legal and Constitutional Affairs	Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999
2000	Legal and Constitutional Affairs	Privacy Amendment (Private Sector) Bill 2000
2008	Primary Industries and Resources	Draft Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008
2008	Climate Change, Water, Environment and the Arts	Resale Royalty Right for Visual Artists Bill 2008

**NOTE**

1 All bills referred to House committees have been listed. In some cases, a single inquiry has related to more than one bill.

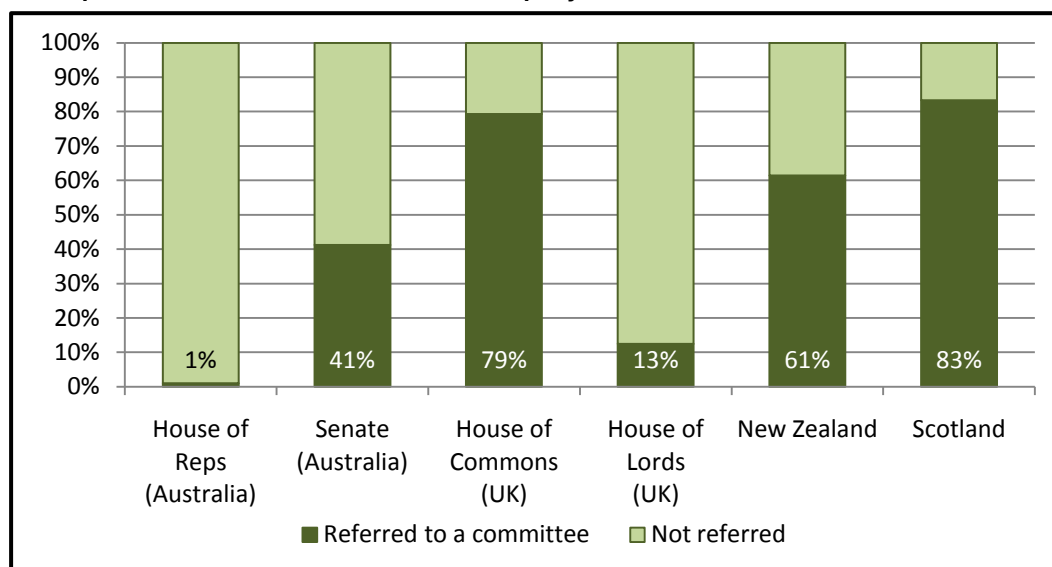
- 6.21 Feedback from the Committee's colleagues – from both sides of the Chamber – has been overwhelmingly positive about the impact of bills inquiries conducted by House committees. The cooperative approach House committees typically take to bills inquiries has resulted, for example, in improvements and unintended consequences being identified in bills before they are considered by the Chamber. The result is generally better quality legislation passed by the House.
- 6.22 Such sentiments are echoed by other witnesses. The Hon. Kevin Rozzoli supports a greater role for House committees in considering legislation, suggesting that it would result in better legislative outcomes.<sup>14</sup> Similarly, the Department of the House of Representatives (DHR) recommends that the Procedure Committee investigate mechanisms for encouraging more frequent referral of bills to committees.<sup>15</sup> The Standing Committee on

14 The Hon. K. Rozzoli, *Submission No. 2*, p. 12.

15 Department of the House of Representatives, *Submission No. 6*, p. 3

Legal and Constitutional Affairs (LACA) considers the increased number of bills referred to committees in the 42nd Parliament to be a positive trend.<sup>16</sup>

**Figure 6.7 Proportion of bills referred to committees per year, various Parliaments**



Source Information published on each Parliament's website, as at 19 February 2010, at: <<http://www.aph.gov.au>>; <<http://www.parliament.uk>>; <<http://www.parliament.nz>>; and <<http://www.scottish.parliament.uk>><sup>17</sup>

## Committee conclusions

6.23 Bills inquiries deliver considerable benefits to the House, the Government, and the Australian public, and contribute constructively to the legislative process. The Committee is pleased with the recent revival of bills inquiries being referred to House committees. The Committee is keen to ensure that this trend continues, and has considered a number of ways to encourage this.

6.24 One mechanism is the automatic referral of bills to House committees. This would involve bills being introduced into the House and subsequently standing referred to a House committee for inquiry and report, which is the process undertaken in many other parliaments.<sup>18</sup> This automatic referral process has not occurred in the House of

<sup>16</sup> House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2.

<sup>17</sup> Due to the availability of statistics, the periods covered by these statistics are: 2008 (Australia); 2007-08 session (UK); and 2009 (New Zealand and Scotland). Figures relate to all bills (all public bills in the case of the UK) introduced into a chamber, which were then referred to a parliamentary committee for inquiry and report (does not include committees of the whole chamber).

<sup>18</sup> The Hon. K. Rozzoli AM, *Submission No. 2*, p. 8; Dr P. Larkin, *Submission No. 14*, p. 8.

Representatives, partly because ‘... Australia has a large number of very small bills’ compared with some other parliaments, which may have fewer, bigger bills.<sup>19</sup>

- 6.25 There was a broad consensus that not all bills need to be inquired into by committees, although Dr Phil Larkin did suggest that it should be up to the committee itself to make this decision. Furthermore, there is a need to ensure that House committees do not duplicate the efforts of their Senate counterparts, who conduct many bills inquiries (albeit with a different culture and membership composition).
- 6.26 Therefore, the Committee does not support the automatic referral of bills to House committees. Rather, it expresses its strong support for more bills inquiries to be undertaken by House committees. The Committee strongly encourages Ministers to take advantage of the consultative, bi-partisan and constructive nature of House committees by referring more bills to them for inquiry and report.
- 6.27 Bills inquiries often require specialist legal advice. In the past, this has often involved the secondment of staff from the relevant department during an inquiry. But this may become an issue if there is a sustained need for such assistance and, more so, if committees develop a practice of drafting proposed amendments as well as recommendations. The Committee is therefore concerned to ensure that the DHR is adequately resourced to allow it to carry out more bills inquiries without compromising its present standard of committee support.<sup>20</sup>
- 6.28 Through their investigative inquiries, committees already have some role in providing advice to government in the pre-legislation stages of the policy process. There may be scope to expand the involvement of House committees at slightly later stages of the process as well.
- 6.29 This might involve committee consideration prior to the introduction of legislation, such as through inquiries into white papers or green papers. Dr Larkin notes that such inquiries are more common in the UK Parliament.<sup>21</sup> House committees may be an ideal vehicle for these inquiries, particularly if they have examined related matters earlier.
- 6.30 At a post-legislation stage, House committees can have a constructive role in monitoring the implementation of Acts of Parliament, as well as inquiring into legislative instruments and other delegated legislation.

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19 Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 4.

20 Resourcing is considered in greater detail in Chapter 2.

21 Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 10.

- 6.31 The Committee notes that governments ask many extra-parliamentary bodies to conduct various inquiries. While this may be appropriate and necessary in some cases, the Committee is concerned about any unnecessary increase in this trend. House committees are ideal bodies for investigating matters of public policy, at whatever stage of the policy formulation and implementation process. The capacity of House committees to consult widely and access expert advice, act as a ‘bridge’ between Parliament and the people, and their tendency to work cooperatively and constructively, contribute to their effectiveness in this regard. The Committee therefore strongly supports more pre-legislation proposals, subordinate legislation and other matters being referred to House committees. The Committee asks that the Deputy Speaker, as Chair of the Liaison Committee of Chairs and Deputy Chairs, inform Ministers of the benefits associated with House committee inquiries and the broad support for greater utilisation of House committees.

### **Recommendation 22**

**The Committee recommends that the Government consider increasing references to House committees for inquiry and report in areas such as:**

- **bills and pre-legislation proposals, including draft bills, green papers, white papers and other investigative inquiries; and**
- **post-legislation issues, including delegated legislation and matters relevant to policy implementation.**

## **Inquiries into petitions**

- 6.32 Following the Procedure Committee’s inquiry into the House petitioning process in the 41st Parliament, a new process was instituted and a Petitions Committee established at the beginning of the 42nd Parliament.<sup>22</sup> The Petitions Committee now considers petitions for compliance with standing and sessional orders, before they are presented to the House and refers petitions to relevant Ministers for a response.<sup>23</sup> From time to time, the Petitions Committee holds public hearings into petitions and Ministerial responses. However, the committee does not have the power to refer petitions to other committees for their consideration.

<sup>22</sup> *Making a difference*; VP 2008-10/11-26.

<sup>23</sup> This process of committee consideration ensures that petitions comply with the standing orders.

6.33 Dr Larkin supports petitions being referred to other committees for inquiry and notes that this approach has been adopted in comparable parliaments.<sup>24</sup> As noted in Chapter 5, the House's standing orders have long provided for committees to examine any petition referred to them by the House or a Minister.<sup>25</sup> No such inquiries have taken place.<sup>26</sup> Motions to refer a petition to a House or joint committee have been moved in the House on several occasions, without success.<sup>27</sup>

### Committee conclusions

6.34 The establishment of the Petitions Committee has had a considerable effect on the way petitions are processed in the House and responded to by Ministers. The Committee is pleased to note the improved status of petitions, but notes that petitions are not necessarily inquired into on a regular basis. While this may be perfectly appropriate in some cases, House committees should have the option to inquire into petitions relevant to their policy areas.

6.35 Because of the Petitions Committee's level of involvement and familiarity with the petitioning process, it may be logical for it to be more involved in the referral of petitions to House standing committees.

6.36 Although the existing referral mechanisms (that is, referral by the House or by a Minister) should be retained, the Committee supports the DHR's proposal: the Petitions Committee should be given the power to refer relevant petitions to the other House committees, which would then have the opportunity to inquire into a petition if they so wish.<sup>28</sup>

### Recommendation 23

**The Committee recommends that the standing and sessional orders be amended to give the Standing Committee on Petitions the power to refer petitions to the relevant House committee, which may then choose to inquire into a petition referred to it and report to the House.**

24 Dr P. Larkin, *Transcript of evidence*, 22 October 2009, p. 5. And see Chapter 5 for a brief description of role of the Public Petitions Committee of the Scottish Parliament.

25 Department of the House of Representatives, *Submission No. 6*, p. 3.

26 Department of the House of Representatives, *Submission No. 6*, pp. 3–4.

27 *H.R. Practice*, p. 618, footnote 265. Although petitions have not been successfully referred to existing standing committees, on two occasions select committees have been appointed to inquire into, among other things, matters in connection with certain petitions presented to the House; *H.R. Practice*, pp. 618–9.

28 Department of the House of Representatives, *Submission No. 6*, p. 4.





## Outcomes of committee work

- 7.1 In assessing the effectiveness of a committee or system of committees, the focus is often placed on quantifying inquiry outcomes. This might include: whether inquiries reach completion<sup>1</sup>; whether and when a government response is received, and the nature of that response<sup>2</sup>; or the number of reports tabled<sup>3</sup>.
- 7.2 Although the Committee does not focus on inquiry outcomes in an attempt to 'rate' the effectiveness of the House committee system, the 'output' side of committee work is discussed here, with a view to improving workability. Outcomes considered in this chapter are:
- committee reports: how and when they are presented and debated; and
  - responses to committee reports, including:
    - ⇒ formal government responses that are adequate, timely and part of an ongoing dialogue;
    - ⇒ implementation of committees' recommendations; and
    - ⇒ a meaningful process of evaluating an inquiry's effectiveness.

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1 For example: L Pryor and G Ryle, 'MPs travel the world, inquiries go nowhere', *Sydney Morning Herald*, 22 June 2005, p. 12.

2 For example: D Monk, 'A statistical analysis of government responses to committee reports: Reports tabled between the 2001 and 2004 elections', *Parliamentary Studies Paper*, No. 11, Crawford School of Economics and Government, Australian National University, Canberra, 2009; G Ryle and L Pryor, 'Democracy denied', *Sydney Morning Herald*, 20 June 2005, p. 1; G Ryle and L Pryor, 'Hot topics given cold shoulder', *Sydney Morning Herald*, 21 June 2005, p. 7.

3 For example: A Walters, 'Two pays one job', *Daily Telegraph*, 8 January 2010, pp. 1, 4.

## Committee reports

- 7.3 At the conclusion of inquiries, committees produce reports that are presented in the Chamber.<sup>4</sup> These reports synthesise and assess the evidence that has been received during the course of the inquiry, and explain the committee's conclusions and recommendations for change. They inform the House of committee findings, and give the House the capacity to scrutinise the work of committees.

### Time for presentation and debate: the profile of committee work

- 7.4 Under the House's current order of business, committee reports are presented from 8.40 p.m. on Monday evenings.<sup>5</sup> Some Members – usually the Chair and/or Deputy Chair – may speak to a report when it is presented in the House. Others – including non-members of the committee – may do so when debate on a 'take note' motion relating to the report is resumed at another time, either in the Chamber or the Main Committee.
- 7.5 Following presentation to the Parliament, committees publish reports on their websites. Sometimes, report presentation is followed by media releases or press conferences, particularly when an inquiry is highly topical or affects large sections of the community.
- 7.6 Many Chairs and Deputy Chairs suggested that the presentation and discussion of committee reports be given a higher profile in the House. One submission also laments the lack of attention reports receive, both upon presentation and the priority accorded to the resumption of debate:
- ... if committee reports are to have real benefit to the community, debate on their recommendations must be allocated adequate parliamentary time ... If it is worth establishing committees it is worth ensuring the public gets maximum value for the expense and effort that is given to the work of committees.<sup>6</sup>

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4 Reports of joint committees are also presented in the Senate. Interim reports may also be presented before the committee's inquiry is completed.

5 Standing order 34.

6 The Hon. K. Rozzoli AM, *Submission No. 2*, p. 4.

- 7.7 One factor in the low profile of committee reports may be their tabling time. The Department of the House of Representatives (DHR) and the Standing Committee on Legal and Constitutional Affairs (LACA) highlight the practical difficulties involved in the current Monday evening timeslot for presentation of committee reports.<sup>7</sup> These relate to:
- the ability of witnesses and other members of the public to attend the public galleries when the report is being presented in the Chamber;<sup>8</sup>
  - difficulties with publicising the report immediately, noting that the presentation time is generally too late in the day to allow a press conference to occur; and
  - staff working extended hours to make the report available online upon presentation in the Chamber, or the report not being available electronically until the next day.
- 7.8 The DHR, LACA Committee and committee Chairs and Deputy Chairs consistently supported amending the Chamber order of business to provide for the presentation of committee reports earlier on Mondays.<sup>9</sup> The DHR proposes that committee and delegation report and private Members' business time be consolidated in the Chamber, rather than splitting this business between the Chamber and Main Committee on Monday evenings. It suggests that petitions be presented at noon, followed by committee and delegation reports, and private Members' business. To compensate for any lost time, more government business could take place in the Main Committee on Mondays.<sup>10</sup>

### Committee conclusions

- 7.9 Members, witnesses and the House dedicate significant time and other resources to committee work. The Committee has serious concerns about the current profile of committee work in the Chamber and Main Committee. A failure to allocate adequate and appropriate time to committee business in these venues could potentially undermine the importance and effectiveness of the House committee system.

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7 Department of the House of Representatives, *Submission No. 6*, pp. 9–10; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 2.

8 Special arrangements are necessary for members of the public to enter the building after 5 p.m.

9 Department of the House of Representatives, *Submission No. 6*, pp. 9–10; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 3; consultations with committee Chairs and Deputy Chairs.

10 The Department made a similar recommendation in its submission to the Committee's inquiry into the conduct of the business of the House.

- 7.10 The Committee notes with interest proposals to have committee and delegation reports presented earlier in the day.<sup>11</sup> This would ensure that private Members' business is not disrupted by deferred divisions, which may take place from 8 p.m. on Monday evenings. It would also allow for reports tabled in the Chamber, during the set period for the presentation of committee and delegation reports, to be referred to the Main Committee for debate later that day: this is currently not possible. Reports gain momentum when presented and debated on the same day, and Members also gain a great deal of professional satisfaction from this.
- 7.11 The Committee supports the period of committee and delegation reports and private Members' business taking place in the Chamber early on a sitting Monday, with the Main Committee meeting earlier as well. Reports could be briefly presented by Chairs, with or without a brief tabling statement, and be referred immediately to the Main Committee for debate. This would give more Members an opportunity to contribute to the debate almost as soon as the report is tabled, and may result in a more substantial debate on a report than may currently be possible.
- 7.12 The Committee considers that the earlier sitting of the House (10 a.m. instead of the current 12 noon) and the extra hours in the Main Committee (10.30 a.m. to approximately 1.30 p.m.) would justify a reconsideration of the adjournment time on Monday nights. On balance, it favours a 9 p.m. adjournment in the Chamber, with an adjournment debate from 8.30 p.m. The Main Committee would therefore need to adjourn at 8.30 p.m., with the grievance debate perhaps taking place from 7.30 p.m. The net result of this proposal, including the earlier adjournment time, would be a 15 minute loss of government business time in the Chamber. However, this would be more than offset by time for government business during the later meeting of the Main Committee on Mondays.

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11 Department of the House of Representatives, *Submission No. 6*, pp. 9-10; *It's your House*, recommendation 22; House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission No. 7*, p. 3; consultations with committee Chairs and Deputy Chairs.

**Recommendation 24**

The Committee recommends that:

- the standing orders be amended to provide for:
  - ⇒ a period of committee and delegation business and private Members' business to be given priority in the Chamber on Mondays from 10 a.m. to 12 noon, beginning with Petitions Committee report and statement(s) for 10 minutes;
  - ⇒ the Main Committee to regularly meet on Mondays from 10.30 a.m. to 1.30 p.m., commencing with a 30 minute period of three minute constituency statements as provided by standing order 193, followed by committee and delegation reports and private Members' business being given priority;
  - ⇒ quorums and divisions called during the period of committee and delegation business and private Members' business being deferred until the conclusion of Question Time;
  - ⇒ 90 second statements to take place in the Chamber from 1.45 p.m. on Mondays, instead of in the Main Committee; and
  - ⇒ the adjournment to be proposed at 8.30 p.m. on Mondays, and the House adjourning at 9 p.m.;
- the whips:
  - ⇒ continue to recommend the order of consideration of matters and the times allocated for each item and for each Member speaking during periods of committee and delegation reports and private Members' business in the Chamber on Mondays, in line with the provisions of standing order 41A; and
  - ⇒ consider allocating time for the presentation of committee and delegation reports such that a short time be provided in the Chamber for presentation and referral of the report to the Main Committee, with statements and debate taking place as soon as practicable in the Main Committee; and
- the impact of changes be reviewed by the Procedure Committee as soon as practicable after six months of implementation.

## **Making space in the House's schedule**

- 7.13 Committee work is an integral part of a Member's duties. To give public recognition to this and to strengthen the committee system, some submissions recommend dividing parliamentary sittings into plenary sessions and committee sessions.<sup>12</sup> Committee days would then be publicly listed in the parliamentary sitting calendar, giving the public a truer picture of Members' parliamentary workload.
- 7.14 Another option discussed during consultations with Chairs and Deputy Chairs is allocating a portion of each sitting week exclusively to committee work. The Chamber and Main Committee would not operate, and this would also give Ministers an opportunity to conduct meetings without the risk of interruptions caused by divisions in the House.

## **Committee conclusions**

- 7.15 The difficulty of identifying an appropriate time of the week not already allocated to other business, and an absence of consensus, makes these options unworkable at this time. The Committee considers that its proposal for a future committee inquiry into proposals for minimising disruptions during sitting weeks<sup>13</sup> would go some way to better accommodating committee work in the House.

## **Responses to committee activities**

- 7.16 The presentation of a committee's report should not be considered the end of the inquiry process. Responses may arise – from government, from the public, and from committee members – and the effectiveness of the House committee system could be improved if they are approached more systematically. Outcomes that committees might monitor include:
- government responses;
  - implementation of recommendations; and
  - overall effectiveness.

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12 The Hon. K. Rozzoli AM, *Submission No. 2*, p. 3; Associate Professor S. Rice and Dr M. Rimmer, *Submission No. 11*, p. 6.

13 See end of Chapter 2.

## Government responses

- 7.17 Since 1978, successive governments have undertaken to respond formally to parliamentary committee reports, and in 1983 the government reduced the period for responses from the original six months to three. Although House standing orders do not contain any binding requirement for a response (or a timeframe), successive governments have agreed to comply with the convention.
- 7.18 Government responses are usually presented in the House with other government documents<sup>14</sup> and are published on the relevant committee's website. Often, but not always, Ministers will inform Chairs that a government response has been presented in the House.
- 7.19 At approximately six-monthly intervals, the Speaker presents a schedule of government responses to House and joint committee reports, as well as a list of responses that remain outstanding.<sup>15</sup> The government usually responds by informing the House – in summary form – of its progress in relation to the outstanding responses.
- 7.20 A great deal of work goes into committee inquiries, not only by Members but also by the many witnesses who make submissions and take the time to meet with the committee. Committee reports therefore represent the culmination of an often lengthy, resource-intensive and time-consuming inquiry process. Witnesses, members of the public, and committee members are understandably frustrated when there is a delay in receiving a government response to a committee report or, worse still, when a response does not eventuate at all.
- 7.21 Many Chairs and Deputy Chairs were concerned about the detrimental effect late responses could have on the standing of House committees, and the likelihood of witnesses participating in future inquiries. These potential consequences have prompted a number of witnesses to propose reforms for more timely government responses.
- 7.22 One possibility was that, where a response has not been received within a certain timeframe, standing orders would specifically enable committees to hold a hearing at which the Minister or officials from the relevant government department would be invited to attend and explain the delay.

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14 Standing order 34; this takes place every sitting day after Question Time.

15 A copy of the most recent schedule is available at Appendix G.

- 7.23 Another option, proposed by the Department of the House of Representatives (DHR), is the House establishing a mechanism similar to that for outstanding answers to questions in writing.<sup>16</sup> A Member (most likely the relevant Chair) could, perhaps after Question Time in the Chamber, raise any delay in receiving a government response and ask that the Speaker pursue this with the appropriate Minister.

#### **Committee conclusions**

- 7.24 Although the regular Speaker's schedule of outstanding government responses is one way of monitoring government compliance with the three-month timeframe, there may be some benefit in formalising the convention and in increasing the ways in which committees can hold the government to account over responses and implementation of recommendations.
- 7.25 The Committee notes that, often, committee recommendations are absorbed into government policy without a formal response being provided. However, Members are concerned that the absence of a response may appear to indicate a lack of respect for contributors to a committee inquiry.
- 7.26 The standing orders already allow a committee to invite a Minister to attend a meeting.<sup>17</sup> However, the Committee suggests that Chairs and Deputy Chairs could perhaps be better informed of this provision.
- 7.27 The Committee favours the DHR's proposal, which would require changes to the standing orders not only to enshrine the mechanism, but also to formalise the timeframe for a government response which, at present, is an informal undertaking. Acceptance of this proposal would affirm commitment to an open, accountable and sustainable committee system in the House of Representatives.

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16 Department of the House of Representatives, *Submission No. 6*, pp. 13–14.

17 Standing order 249.



## Recommendation 25

The Committee recommends that:

- the standing orders be amended to require that, within three months of a House or joint committee report being presented in the House, a government response be tabled in the House and, if no such response has been received within four months of such a report being presented in the House, to allow a permanent member of the committee, at the conclusion of Question Time, to ask the Speaker to write to the Minister concerned, seeking reasons for the delay in responding;
- Ministers inform the relevant committee Chair immediately a government response is presented in the House;
- the Speaker present his schedule of outstanding responses to committee reports at least three times a year; and
- through the Liaison Committee of Chairs and Deputy Chairs, Members be reminded of a committee's power, under standing order 249, to invite a Minister to appear before it.

## Implementation of recommendations

7.28 Even if a government response is received, and the committee's recommendations are accepted, there is no guarantee that those recommendations will necessarily be implemented. The Hon. Kevin Rozzoli suggests that, if a committee's recommendations are accepted by the government without amendment, those recommendations should be binding.<sup>18</sup> He suggests that this would make governments more accountable because they would have to take specific action to reject or amend recommendations. It would also make committees more mindful about the way they frame recommendations.

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<sup>18</sup> The Hon. K. Rozzoli, *Submission No. 2*, pp. 6–7.

### Committee conclusions

- 7.29 It is unclear how Mr Rozzoli's proposal would fit with the 'prerogatives of executive government' discussed by Professor Ian Marsh.<sup>19</sup> Furthermore, there are sometimes very good reasons for policies not being implemented: a better policy may have been identified, the policy problem being responded to might have changed, or other policies may have taken priority.
- 7.30 Another suggestion put to the Committee involves giving committees the power to initiate a review of an inquiry after a certain period of time. If committees are given the power to initiate their own inquiries, this could be done without any further change to the standing orders.
- 7.31 It is vital that committees continue to monitor the outcomes of their inquiries, through to the implementation and evaluation stages.<sup>20</sup> Such activities are essential for the ongoing effectiveness of the House committee system and, significantly, can be undertaken under existing standing orders.<sup>21</sup> Indeed, some committees already regularly monitor the implementation of their recommendations.<sup>22</sup> These less formal avenues can be just as effective as formal reviews, and the Committee encourages all House committees to establish their own mechanisms for monitoring the implementation of their recommendations.

### A time for reflection: evaluating an inquiry's effectiveness

- 7.32 In assessing effectiveness, analysts often emphasise formal outcomes of committee processes, such as committee reports and government responses. This may distract from other important, but perhaps less obvious, outcomes of inquiries:

Parliamentary committee work plays a range of important roles in politics and in policy, but few of those roles are actually revealed

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19 Professor I. Marsh, *Submission No. 13*, p. 5.

20 Professor G. J. Lindell, *Submission No. 4*, p. 1; Civil Liberties Australia, *Submission No. 9*, p. 2.

21 Professor Lindell supports select committees remaining in existence to monitor the implementation of their recommendations. The House is able to make such provisions in the resolution of appointment.

22 Some committees have a practice of inviting representatives from relevant government departments to regular (e.g. annual) briefings to brief them on current issues and to answer questions, including questions on the implementation of recommendations of committees from previous Parliaments.

through the publication of committee reports or the responses of governments to them.<sup>23</sup>

- 7.33 A former Minister has pointed out that an emphasis on formal outcomes fails to account for the way in which committees influence government policies. Then Health Minister, the Hon. Tony Abbott MP, was quoted as saying that:

... people who went to the trouble of giving evidence to committees should not think their efforts were in vain as many government policies “are subtly moderated because of the kind of evidence that parliamentary committees take”.<sup>24</sup>

- 7.34 Associate Professor Simon Rice and Dr Matthew Rimmer recommend that committees be required and resourced to periodically review and report on the progress of previous reports.<sup>25</sup> Such reviews would include the nature or absence of a government response, and could be conducted by external bodies.

### **Committee conclusions**

- 7.35 There would be significant costs associated with the conduct of external reviews of committee inquiries, which would necessitate additional funding. Also, reviews of this sort could overemphasise government responses to recommendations as the main outcomes of committee processes, neglecting less formal but nonetheless valuable outcomes.
- 7.36 Such outcomes include those discussed in Chapter 1: contributing to the formulation and evaluation of public policy; facilitating community engagement and citizens’ participation in democratic processes; educating Members and providing them with opportunities to participate that do not involve the front bench; and facilitating cooperative work across party lines.
- 7.37 Although these outcomes may not be as readily quantifiable as data relating to formal government responses, there may be merit in attempting to capture and report on them. This may provide a more accurate picture of the value of House committee work.

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23 I Holland, ‘Parliamentary committees as an arena for policy work’ in HK Colebatch (ed.), *Beyond the policy cycle – The policy process in Australia*, Allen & Unwin, Sydney, 2006, p. 66.

24 G Ryle, L Pryor and M Metherell, ‘Senate boss blasts PM’s monarchy’, *Sydney Morning Herald*, 21 June 2005, p. 1.

25 Associate Professor S. Rice OAM and Dr M. Rimmer, *Submission No. 11*, pp. 12–13.

- 7.38 Instead of external reviews, committees themselves are better placed to evaluate the relative success of their own inquiries. Such evaluations could be as formal or as informal as the committee considers appropriate. Evaluations could also be made public, if the committee wishes.
- 7.39 Such an evaluation process would provide an opportunity for the committee as a whole to reflect on an inquiry's successes, as well as strategies for improvement, and could focus on matters such as:
- the nature of the government response received;
  - the implementation of recommendations, and whether the desired effects were achieved;
  - the extent and nature (including diversity) of community engagement and the opportunity for citizens' participation in the democratic process; and
  - the opportunities for Members and the public to learn about issues of importance to the community.

**JULIE OWENS MP**

**Chair**

**3 June 2010**



## **Appendix A: 1976 recommendations**

### **Joint Committee on the Parliamentary Committee System, *A New Parliamentary Committee System*, May 1976**

#### **List of recommendations**

- 1 It is recommended that standing orders be amended to provide for the appointment of legislation committees to consider Bills, clause by clause, after they have passed the second reading.
- 2 It is recommended that standing orders be amended to provide that at the commencement of each Parliament a Committee of Selection be appointed in each House.
- 3 It is recommended that standing orders be amended to provide that a motion to refer a Bill to a legislation committee be on notice and that the Chair should refuse to proceed with the motion if, on the calling of the notice, it is objected to by one-sixth or more of the total membership of the House rising in their places to signify that they do not wish the motion to proceed to a vote.
- 4 It is recommended that standing orders provide that legislation committee chairmen be chosen from the Deputy or Temporary Chairmen of Committees.
- 5 It is recommended that House of Representatives standing orders provide that legislation committees be of not less than 13 members and not more than 19 members, excluding the chairman and that a quorum be one-third.

- 6 It is recommended that Senate standing orders provide that legislation committees be of no less than 6, excluding the chairman and that a quorum be one-third.
- 7 It is recommended that the standing orders provide that a legislation committee's proceedings may be suspended at any time by the chairman if the members present do not constitute a quorum.
- 8 It is recommended that standing orders provide that the chairmen of legislation committees be entitled to permit any members of their House to speak in debate.
- 9 It is recommended that Bills be reprinted, if amended, before they are reported to the House and that the report of a legislation committee not contain argument.
- 10 It is recommended that governments adopt the practice of presenting to the House of Representatives Green Papers and White Papers relating to proposed legislation.
- 11 The Committee recommends that the House of Representatives appoint a Standing Committee on Public Administration.
- 12 It is recommended that the Senate establish 8 standing subject matter committees of 6 Senators.
- 13 It is recommended that the Senate standing committees be established by standing order and that the standing orders prescribe the following procedure for selection of references:
  - (a) all references shall be by resolution of the Senate;
  - (b) the first task of a committee is to report back to the Senate recommending a definition of its terms of reference and a deadline for completion of its inquiry;
  - (c) the inquiry shall not commence until the Senate has ratified the definition of the terms of reference and accepted the projected time scale.
- 14 It is recommended that the House of Representatives establish, by standing order, a standing business committee.
- 15 It is recommended that the subject matter committees of the House of Representatives be of no more than 8 members, that no more than 8 such committees operate concurrently and that each committee be required to report by a certain date.

- 16 It is recommended that subject matter committees of the Senate and the House have a quorum of 3, or 2 for the purpose of taking evidence.
- 17 It is recommended that the responsibilities of the House, Library and Publications Committees devolve directly on the Presiding Officers and the Management and Members' Services Committee.
- 18 It is recommended that standing orders provide for the appointment, at the commencement of each Parliament, of an advisory committee of backbenchers to be known as the Management and Members' Services Committee to confer with and advise the Presiding Officers.
- 19 It is recommended that the standing orders of the Senate and the House of Representatives be amended to provide for the appointment of a Committee on Procedure in each House; that the committees be of no more than 7 members; that no office holders other than the Presiding Officer and his deputy be eligible for appointment; and that the terms of reference of the committees be as follows:

"To maintain a continuing surveillance of the practices and procedures of the Senate (House) with a view to making recommendations for their improvement or change and for the development of new procedures; such recommendations being made normally by report to the Senate (House) but, on certain occasions, being made directly to the Presiding Officer when the recommendations relate to the exercise of existing powers."
- 20 It is recommended that the practices of the Houses for the appointment of select committees be maintained; that select committees consist of no more than 6 Senators or 8 Members; that a quorum of a select committee be 3, or 2 for the purpose of taking evidence.
- 21 It is recommended that select committees not be empowered to report from time to time.
- 22 It is recommended that the Senate appoint a standing committee to deal with delegated powers and that the standing orders of the Senate be amended to accurately describe the scope of its activity.
- 23 It is recommended that the Procedure Committees established pursuant to recommendation 19 (paragraph 249) be immediately charged with the task of preparing the legislation and standing orders required to give effect to the recommendations of this report.

- 24 The Committee recommends to the Presiding Officers that they consider the classifications of permanent committee secretariat staff with a view to ensuring that they are not disadvantaged by comparison with the salary classifications of Public Servants performing similar functions.
- 25 Accordingly, it is recommended that (contingent upon the Public Accounts and Public Works Committees not being abolished) Mr President and Mr Speaker consult with a view to allocating the secretariats of the Public Accounts and Public Works Committees within the permanent committee secretariat of the House of Representatives.





## **Appendix B: 1998 recommendations**

### **House of Representatives Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, June 1998**

#### **Summary of recommendations and government responses**

- |   |  |                |
|---|--|----------------|
| 1 | The total number of committees on which Members of the House serve be reduced.<br><br>The reduction in the number of committees be achieved by not reappointing the following committees in the 39th Parliament: The Joint Standing Committees on Electoral Matters; Migration; and the National Capital and External Territories. | Not supported. |
| 2 | The following committees not be reappointed in the 39th Parliament: The Joint Parliamentary Committees on the Australian Security Intelligence Organisation; Corporations and Securities; the National Crime Authority; and Native Title and the Aboriginal and Torres Strait Islander Land Fund.                                  | Not supported. |

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|---|---|--|
| 3 | The standing orders be amended to provide that general purpose standing committees consist of ten Members, six government and four non-government Members.  | Recommendations 3 and 4 supported in part:<br><br>The Standing Orders should expressly provide that the two supplementary members should include one government and one non government member. |
| 4 | The standing orders be amended to provide for the appointment of up to two additional Members for a particular inquiry.   |  |
| 5 | The membership of the Procedure Committee be reduced to seven.  | Supported.   |
| 6 | Standing orders be amended to enable committees to determine their own references.  | Not supported.   |
| 7 | Standing orders be amended to provide for reports of the Auditor-General to stand referred to general purpose standing committees for any inquiry they wish to make. Each committee shall notify the Joint Committee of Public Accounts and Audit in writing when it intends to examine a report. | Supported.   |
| 8 | The Joint Committee of Public Accounts and Audit develop procedures to ensure that the views of general purpose standing committees are sought prior to the determination of Parliament's audit priorities.   | Supported.   |
| 9 | As a general rule, bills should only be referred to House committees or, if necessary, the House may refer a bill specifically to a committee consisting of House members of a joint committee, rather than to the joint committee as a whole.  | Supported.   |

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| 10 | Standing orders be amended to provide for petitions to stand referred to general purpose standing committees for any inquiry the committee may wish to make.   | Not supported.                             |
| 11 | Standing orders be amended to enable the Selection Committee to determine the balance between committee and delegation business and private Members' business within an overall allocation of time each Monday.  | Supported for a trial period of 12 months. |
| 12 | The order of business and the times of sitting be reviewed to enable debate on committee reports, in the Main Committee, to commence during the same week as tabling.  | Supported in principle.                    |
| 13 | The standing orders be amended to require the Government to respond to committee reports within three months of tabling.   | Not supported.                             |
| 14 | The standing orders be amended to enable a Member to request the Speaker to write to the Minister if, after three months, a response has not been made.  | Not supported.                             |
| 15 | The standing orders be amended to require the Speaker to table in the House, at six monthly intervals, a schedule of government responses to the reports of House of Representatives and joint committees, and reports presented to which responses are outstanding. | Not supported.                             |
| 16 | The standing orders be amended to provide for a specified time (eg immediately prior to the presentation of committee and delegation reports on Mondays) for the presentation of government responses to committee reports.  | Not supported.                             |
| 17 | The standing orders be amended to provide for automatic placement on the Notice Paper of government responses to committee reports when presented.   | Not supported.                             |

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|----|---|-------------------------|
| 18 | The order of business and times of sitting be reviewed to enable government responses to committee reports to be debated, either in the House or the Main Committee.  | Not supported.          |
| 19 | The standing orders governing the appointment of members to serve on committees be amended to provide for appointment by resolution of the House in all cases.  | Supported.              |
| 20 | The Speaker and the President of the Senate confer on the development of suitable joint standing orders concerning the operation of joint committees which should then be agreed to by both Houses.   | Supported.              |
| 21 | The standing orders be amended to recognise as appropriate inquiry procedure, the less formal processes used by committees in the gathering of information.   | Supported.              |
| 22 | The existing procedures relating to the use of electronic communication devices by committees be reviewed by the Standing Committee on Procedure prior to the end of the 39th Parliament with a view to their incorporation in the standing orders. | Supported.              |
| 23 | The standing orders be amended to recognise, as evidence, documents received by committees by electronic means.   | Supported.              |
| 24 | The House agree to a resolution providing procedures for dealing with witnesses in the terms set out in appendix 2 to this report.  | Supported in principle. |

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|----|--|--|
| 25 | The House adopt the 1991 recommendations of the Standing Committee on Procedure relating to the disclosure of in camera evidence, except for that recommendation relating to penalties.  | Supported in part for a trial period of 12 months.   |
| 26 | Penalties for unauthorised disclosure be decided by the House on a case by case basis following investigation and report by the Privileges Committee. The terms of the proposed resolution are set out in appendix 3 to this report. | The Government agrees with the Committee's concerns about the treatment of penalties as proposed in the 1991 report. Further, the Government does not support the 1991 report's recommendation that decisions to release in camera evidence should be for the committee concerned (whereas standing order 340 currently provides it is a decision of the House). |
| 27 | The standing orders be amended as set out in appendix 4 of this report to implement the recommendations and make other related changes.  | Supported as appropriate.  |

## Summary of issues still relevant in the House committee system

The following matters, raised in *Ten years on*, can be considered to still be relevant to the House committee system today:

- reduction in the overall number of committees on which Members of the House of Representatives serve;
- a need to reassess the ongoing relevance and purpose of certain committees;
- the ability of committees to determine their own references;
- petitions being referred to general purpose standing committees for inquiry;
- formalising the requirement for government responses to be tabled within a certain timeframe, and instituting procedures for responding to responses or to any delays in responses being tabled; and
- formalising procedures for dealing with witnesses.





## **Appendix C: Submissions and exhibits**

### **List of submissions**

- 1 Professor George Williams
- 2 The Honourable Kevin Rozzoli AM
- 3 Australian Lawyers for Human Rights
- 4 Professor Geoffrey Lindell
- 5 Human Rights Law Resource Centre
- 6 Department of the House of Representatives
  - 6.1 Supplementary submission to Submission No. 6
- 7 House of Representatives Standing Committee on Legal and Constitutional Affairs
- 8 Mr Steve Georganas MP
- 9 Civil Liberties Australia
- 10 Mr Edward Santow
- 11 Associate Professor Simon Rice OAM and Dr Matthew Rimmer
- 12 House of Representatives Standing Committee on Employment and Workplace Relations
- 13 Professor Ian Marsh
- 14 Dr Phil Larkin
- 15 Public Interest Law Clearing House (PILCH)

- 16 Ms Annette Ellis MP
- 17 Doctors for the Environment Australia
- 18 Mr Simon Fenton-Jones
- 19 House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government

## List of exhibits

- 1 J Langmore, *Introduction to Session One: Overview*, Seminar on the Twentieth Anniversary of the Establishment of the House of Representatives Committee System, 15 February 2008.
- 2 G Lindell, 'How (and whether?) to evaluate parliamentary committees – from a lawyer's perspective', extracted and summarised in: Department of House of Representatives, *About the House*, August 2005, pp. 55-6.
- 3 G Lindell, *Session Three: Future Directions and Developments* Seminar on the Twentieth Anniversary of the Establishment of the House of Representatives Committee System, 15 February 2008.
- 4 I Marsh, *Impact of Parliamentary Committee Inquiries: Survey of Participating Associations*.
- 5 I Marsh, *Can Senate Committees Contribute to 'Social Learning'*.
- 6 I Marsh, *The Howard Government Turns Against Itself: The (Insoluble?) Contradiction Between Policy Strategy and Political Strategy*.
- 7 Addendum to correspondence from Mr Angelos Frangopoulos, Chief Executive Officer, Australian News Channel Pty Ltd, 29 October 2009.





## **Appendix D: Briefings and hearings**

### **Private briefings**

#### **Thursday, 13 August 2009**

Mr Ian Harris AO	Clerk Department of the House of Representatives
Mr Bernard Wright	Deputy Clerk Department of the House of Representatives

#### **Thursday, 20 August 2009**

Mr Harry Jenkins MP	Speaker House of Representatives
Ms Anna Burke MP	Deputy Speaker House of Representatives

## Roundtable discussions with Chairs and Deputy Chairs

### Thursday, 17 September 2009

Hon. Dick Adams MP	Chair, House of Representatives Standing Committee on Primary Industries and Resources
Hon. Kevin Andrews MP	Chair, House of Representatives Standing Committee on Economics
Hon. Arch Bevis MP	Chair, Parliamentary Joint Committee on Intelligence and Security  Chair, Defence Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade
Mr Mark Dreyfus QC MP	Chair, House of Representatives Standing Committee on Legal and Constitutional Affairs
Mr Barry Haase MP	Deputy Chair, House of Representatives Standing Committee on Employment and Workplace Relations
Mr Steve Irons MP	Deputy Chair, House of Representatives Standing Committee on Health and Ageing  Deputy Chair, House of Representatives Standing Committee on Publications
Mrs Julia Irwin MP	Chair, House of Representatives Standing Committee on Petitions
Ms Sharyn Jackson MP	Chair, House of Representatives Standing Committee on Employment and Workplace Relations
Ms Catherine King MP	Chair, House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government
Hon. Judi Moylan MP	Deputy Chair, House of Representatives Standing Committee on Family, Community, Housing and Youth
Ms Maria Vamvakinou MP	Chair, House of Representatives Standing Committee on Industry, Science and Innovation

**Monday, 19 October 2009**

Hon. Kevin Andrews MP	Deputy Chair, House of Representatives Standing Committee on Economics
Hon Fran Bailey MP	Deputy Chair, House of Representatives Standing Committee on Industry, Science and Innovation
Ms Sharon Bird MP	Chair, House of Representatives Standing Committee on Education and Training
Hon. Bob Debus MP	Chair, House of Representatives Standing Committee on Aboriginal and Torres Strait Island Affairs
Mr Mark Dreyfus QC MP	Chair, House of Representatives Standing Committee on Legal and Constitutional Affairs
Mr Steve Georganas MP	Chair, House of Representatives Standing Committee on Health and Ageing
Ms Sharon Greirson MP	Chair, Joint Committee of Public Accounts and Audit
Mr Barry Haase MP	Deputy Chair, House of Representatives Standing Committee on Employment and Workplace Relations
Mrs Kay Hull MP	Deputy Chair, House of Representatives Standing Committee on Communications
Ms Belinda Neal MP	Chair, House of Representatives Standing Committee on Communications
Hon. Bruce Scott MP	Deputy Chair, Trade Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade
Hon. Peter Slipper MP	Deputy Chair, House of Representatives Standing Committee on Legal and Constitutional Affairs
Hon. Wilson Tuckey MP	Deputy Chair, House of Representatives Committee of Privileges and Members' Interests
Hon. Danna Vale MP	Deputy Chair, Joint Standing Committee on Migration

## Public hearings

### Thursday, 22 October 2009

Dr Phil Larkin	Lecturer, Public Policy University of Canberra
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### Thursday, 29 October 2009

Ms Susan Breen	Executive Producer Australian News Channel Pty Ltd
Mr Angelos Frangopoulos	Chief Executive Officer Australian News Channel Pty Ltd
Mr Andres Lomp	Director, Liaison and Projects Office Department of the House of Representatives



## **Appendix E: Procedures for dealing with witnesses**

### **Proposed resolution**

That, in their dealings with witnesses, committees of the House shall observe the following procedures:

- (1) A witness shall be invited to attend a committee meeting to give evidence. A witness shall be summoned to appear (whether or not the witness was previously invited to appear) only where the committee has made a decision that the circumstances warrant the issue of a summons.
- (2) Where a committee desires that a witness produce documents or records relevant to the committee's inquiry, the witness shall be invited to do so, and an order that documents or records be produced shall be made (whether or not an invitation to produce documents or records has previously been made) only where the committee has made a decision that the circumstances warrant such an order.
- (3) A witness shall be given notice of a meeting at which he or she is to appear, and shall be supplied with a copy of the committee's terms of reference and an indication of the matters expected to be dealt with during the appearance. Where appropriate a witness may be supplied with a transcript of relevant evidence already taken in public.
- (4) A witness may be given the opportunity to make a submission in writing before appearing to give oral evidence.
- (5) A witness shall be given reasonable access to any documents or records that the witness has produced to a committee.

- (6) A witness shall be offered, before giving evidence, the opportunity to make application, before or during the hearing of the witness's evidence, for any or all of the witness's evidence to be heard in camera, and shall be invited to give reasons for any such application. The witness may give reasons in camera. If the application is not granted, the witness shall be notified of reasons for that decision.
- (7) Before giving any evidence in camera a witness shall be informed whether it is the intention of the committee to publish or present to the House all or part of that evidence, that it is within the power of the committee to do so, and that the House has the authority to order the production and publication of undisclosed evidence. Should the committee decide to publish or present to the House all or part of the evidence taken in camera, the witness shall be advised in advance. A member, in a protest or dissent added to a report, shall not disclose evidence taken in camera unless so authorised by the committee.
- (8) The Chair of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry.
- (9) Where a witness objects to answering any question put to him or her on any ground, including the grounds that it is not relevant, or that it may tend to incriminate him or her, he or she shall be invited to state the ground upon which he or she objects to answering the question. The committee may then consider, in camera, whether it will insist upon an answer to the question, having regard to the relevance of the question to the committee's inquiry and the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the witness shall be informed of that determination, and of the reasons for it, and shall be required to answer the question in camera, unless the committee resolves that it is essential that it be answered in public. Where a witness declines to answer a question to which a committee has required an answer, the committee may report the facts to the House.
- (10) Where a committee has reason to believe that evidence about to be given may reflect on a person, the committee shall give consideration to hearing that evidence in camera.
- (11) Where evidence is given which reflects upon a person, the committee may provide a reasonable opportunity for the person reflected upon to have access to that evidence and to respond to that evidence by written submission or appearance before the committee.

- (12) A witness may make application to be accompanied by counsel or an adviser or advisers and to consult counsel or the adviser(s) in the course of the meeting at which he or she appears. If such an application is not granted, the witness shall be notified of reasons for that decision. A witness accompanied by counsel or an adviser or advisers shall be given reasonable opportunity to consult with counsel or the adviser(s) during a meeting at which he or she appears.
- (13) A departmental officer shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of him or her to superior officers or to the appropriate Minister.
- (14) Witnesses shall be treated with respect and dignity at all times.
- (15) Reasonable opportunity shall be afforded to witnesses to request corrections in the transcript of their evidence and to put before a committee additional written material supplementary to their evidence. Witnesses may also request the opportunity to give further oral evidence.
- (16) Where a committee has any reason to believe that any person has been improperly influenced in respect of evidence which has been or may be given before the committee, or has been subjected to or threatened with any penalty or injury in respect of any evidence given or in respect of prospective evidence, the committee shall take all reasonable steps to ascertain the facts of the matter. Where the committee considers that the facts disclose that a person may have been improperly influenced or subjected to or threatened with penalty or injury in respect of evidence which may be or has been given before the committee, the committee shall report the facts and its conclusions to the House.
- (17) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.







## **Appendix F: Committee positions**

This appendix contains detailed calculations relating to the structure of the committee system, including the theoretical distribution of committee work as a product of changes to both the number of committees and the number of positions available on each committee. A summary of the contents of each table appears below, followed by some notes relating to the data contained in this appendix.

### **List of tables**

**Table 1:** The total number of House and joint committee positions available to Members of the House, with details given for each committee.

**Table 2:** The number of government and non-government Members, private Members, and backbench Members.

**Tables 3, 4, and 5:** Distribution of committee positions under various membership models for general purpose standing committees (10, 8, 7, 6, 5 and 3 members), assuming the number of general purpose standing committees is 10, 8 and 6 respectively. Membership is assumed to be open to all private Members, including non-government frontbench Members.

**Tables 6 and 7:** The same as Tables 3 and 4, but also assuming the membership of each domestic committee (excluding the Petitions Committee and the Committee of Privileges and Members' Interests) is reduced to five.

**Table 8:** Compares the distribution of committee work calculated in Tables 3 to 7, with calculations based on non-government frontbench Members (Shadow Ministers and Shadow Parliamentary Secretaries) being excluded from permanent membership of committees.

## Notes on calculations in this appendix

### General

- Unless otherwise specified, all calculations are as at December 2009.
- Calculations include only ongoing House or joint standing or statutory committees (that is, select committees are not included).

### Tables 3 to 8

- Calculations of the number of positions available exclude *ex-officio* positions.
- For joint committees, calculations include only positions available to Members of the House of Representatives.
- The overall reduction in number of positions (Tables 3 to 7) provides a comparison with the current situation, where there are 256 committee positions in total.
- Although technically a domestic committee, the House Petitions Committee's current membership level is 10 and is therefore treated as a general purpose standing committee for the purpose of adjusting its membership composition.
- Unless otherwise specified:  
G = government positions;  
N = non-government positions.

**Table 1 Committee positions available to Members of the House**

Type	Committee name	Total	Ex-officio	Ordinary positions	
				Govt	Non-govt
House general purpose standing	Aboriginal and Torres Strait Islander Affairs	10	–	6	4
	Climate Change, Water, Environment and the Arts	10	–	6	4
	Communications	10	–	6	4
	Economics	10	–	6	4
	Education and Training	10	–	6	4
	Employment and Workplace Relations	10	–	6	4
	Family, Community, Housing and Youth	10	–	6	4
	Health and Ageing	10	–	6	4
	Industry, Science and Innovation	10	–	6	4
	Infrastructure, Transport, Regional Development and Local Government	10	–	6	4
	Legal and Constitutional Affairs	10	–	6	4
	Primary Industries and Resources	10	–	6	4
	House domestic	House	7	1	3
Petitions		10	–	6	4
Privileges and Members' Interests		11	–	6	5
Procedure		7	–	4	3
Publications		7	–	4	3
Joint (standing or statutory)	Australian Commission for Law Enforcement Integrity	5	–	3	2
	Australian Crime Commission	5	–	3	2
	Broadcasting of Parliamentary Proceedings	6	1	3	2
	Corporations and Financial Services	5	–	3	2
	Electoral Matters	5	–	3	2
	Foreign Affairs, Defence and Trade	22	–	13	9
	Intelligence and Security	5	–	3	2
	Migration	6	–	3	3
	National Capital and External Territories	6	1	3	2
	Parliamentary Library	7	–	4	3
	Public Accounts and Audit	10	–	6	4
Public Works	6	–	3	3	
Treaties	9	–	6	3	
<b>Totals</b>	<i>30 committees</i>	<i>259</i>	<i>3</i>	<i>151</i>	<i>105</i>
				<b>256</b>	

**Table 2 Composition of the House, as at 17 February 2010**

	All Members	Private Members <sup>1</sup>	Backbench Members <sup>2</sup>
Government	83	49	49
Non-government	67	66	37
<b>Total</b>	<i>150</i>	<i>115</i>	<i>86</i>

**NOTES**

- 1 Private Members are all Members, excluding Ministers and Parliamentary Secretaries. These are the Members who are currently considered to be available for committee duties.
- 2 Backbench Members are all Members, excluding Ministers, Parliamentary Secretaries, Shadow Ministers and Shadow Parliamentary Secretaries.

**Table 3** Alternative models of committee membership; no reduction in the number of committees

Type	Committee name	10 (current)		8		7		6		5		3	
		G	N	G	N	G	N	G	N	G	N	G	N
House general purpose standing	Aboriginal and Torres Strait Islander Affairs	6	4	5	3	4	3	4	2	3	2	2	1
	Climate Change, Water, Environment and the Arts	6	4	5	3	4	3	4	2	3	2	2	1
	Communications	6	4	5	3	4	3	4	2	3	2	2	1
	Economics	6	4	5	3	4	3	4	2	3	2	2	1
	Education and Training	6	4	5	3	4	3	4	2	3	2	2	1
	Employment and Workplace Relations	6	4	5	3	4	3	4	2	3	2	2	1
	Family, Community, Housing and Youth	6	4	5	3	4	3	4	2	3	2	2	1
	Health and Ageing	6	4	5	3	4	3	4	2	3	2	2	1
	Industry, Science and Innovation	6	4	5	3	4	3	4	2	3	2	2	1
	Infrastructure, Transport, Regional Development and Local Government	6	4	5	3	4	3	4	2	3	2	2	1
	Legal and Constitutional Affairs	6	4	5	3	4	3	4	2	3	2	2	1
	Primary Industries and Resources	6	4	5	3	4	3	4	2	3	2	2	1
House domestic	House	3	3	3	3	3	3	3	3	3	3	3	3
	Petitions	6	4	5	3	4	3	4	2	3	2	2	1
	Privileges and Members' Interests	6	5	6	5	6	5	6	5	6	5	6	5
	Procedure	4	3	4	3	4	3	4	3	4	3	4	3
	Publications	4	3	4	3	4	3	4	3	4	3	4	3
Joint (standing or statutory)	Australian Commission for Law Enforcement Integrity	3	2	3	2	3	2	3	2	3	2	3	2
	Australian Crime Commission	3	2	3	2	3	2	3	2	3	2	3	2
	Broadcasting of Parliamentary Proceedings	3	2	3	2	3	2	3	2	3	2	3	2
	Corporations and Financial Services	3	2	3	2	3	2	3	2	3	2	3	2
	Electoral Matters	3	2	3	2	3	2	3	2	3	2	3	2
	Foreign Affairs, Defence and Trade	13	9	13	9	13	9	13	9	13	9	13	9
	Intelligence and Security	3	2	3	2	3	2	3	2	3	2	3	2
	Migration	3	3	3	3	3	3	3	3	3	3	3	3
	National Capital and External Territories	3	2	3	2	3	2	3	2	3	2	3	2
	Parliamentary Library	4	3	4	3	4	3	4	3	4	3	4	3
	Public Accounts and Audit	6	4	6	4	6	4	6	4	6	4	6	4
	Public Works	3	3	3	3	3	3	3	3	3	3	3	3
	Treaties	6	3	6	3	6	3	6	3	6	3	6	3
<b>Totals</b>													
	30 committees	151	105	138	92	125	92	125	79	112	79	99	66
<b>Average positions available per private Member</b>	<i>government/non-government</i>	3.1	1.6	2.8	1.4	2.6	1.4	2.6	1.2	2.3	1.2	2.0	1.0
<b>Overall reduction in the number of committee positions</b>	<b>overall</b>	<b>2.2</b>		<b>2.0</b>		<b>1.9</b>		<b>1.8</b>		<b>1.7</b>		<b>1.4</b>	
		0		26		39		52		65		91	

**Table 4 Alternative models of committee membership; number of general purpose standing committees reduced to 10**

Type	Committee name	10 (current)		8		7		6		5		3	
		G	N	G	N	G	N	G	N	G	N	G	N
House general purpose standing	No. 1	6	4	5	3	4	3	4	2	3	2	2	1
	No. 2	6	4	5	3	4	3	4	2	3	2	2	1
	No. 3	6	4	5	3	4	3	4	2	3	2	2	1
	No. 4	6	4	5	3	4	3	4	2	3	2	2	1
	No. 5	6	4	5	3	4	3	4	2	3	2	2	1
	No. 6	6	4	5	3	4	3	4	2	3	2	2	1
	No. 7	6	4	5	3	4	3	4	2	3	2	2	1
	No. 8	6	4	5	3	4	3	4	2	3	2	2	1
	No. 9	6	4	5	3	4	3	4	2	3	2	2	1
	No. 10	6	4	5	3	4	3	4	2	3	2	2	1
House domestic	House	3	3	3	3	3	3	3	3	3	3	3	3
	Petitions	6	4	5	3	4	3	4	2	3	2	2	1
	Privileges and Members' Interests	6	5	6	5	6	5	6	5	6	5	6	5
	Procedure	4	3	4	3	4	3	4	3	4	3	4	3
	Publications	4	3	4	3	4	3	4	3	4	3	4	3
Joint (standing or statutory)	Australian Commission for Law Enforcement Integrity	3	2	3	2	3	2	3	2	3	2	3	2
	Australian Crime Commission	3	2	3	2	3	2	3	2	3	2	3	2
	Broadcasting of Parliamentary Proceedings	3	2	3	2	3	2	3	2	3	2	3	2
	Corporations and Financial Services	3	2	3	2	3	2	3	2	3	2	3	2
	Electoral Matters	3	2	3	2	3	2	3	2	3	2	3	2
	Foreign Affairs, Defence and Trade	13	9	13	9	13	9	13	9	13	9	13	9
	Intelligence and Security	3	2	3	2	3	2	3	2	3	2	3	2
	Migration	3	3	3	3	3	3	3	3	3	3	3	3
	National Capital and External Territories	3	2	3	2	3	2	3	2	3	2	3	2
	Parliamentary Library	4	3	4	3	4	3	4	3	4	3	4	3
	Public Accounts and Audit	6	4	6	4	6	4	6	4	6	4	6	4
	Public Works	3	3	3	3	3	3	3	3	3	3	3	3
	Treaties	6	3	6	3	6	3	6	3	6	3	6	3
<b>Totals</b>	28 committees	139	97	128	86	117	86	117	75	106	75	95	64
<b>Average positions available per private Member</b>	<i>government/non-government</i>	2.8	1.5	2.6	1.3	2.4	1.3	2.4	1.1	2.2	1.1	1.9	1.0
<b>Overall reduction in the number of committee positions</b>	<b>overall</b>	<b>2.1</b>		<b>1.9</b>		<b>1.8</b>		<b>1.7</b>		<b>1.6</b>		<b>1.4</b>	
		20		42		53		64		75		97	

Table 5 Alternative models of committee membership; number of general purpose standing committees reduced to eight

Type	Committee name	10 (current)		8		7		6		5		3			
		G	N	G	N	G	N	G	N	G	N	G	N		
House general purpose standing	No. 1	6	4	5	3	4	3	4	2	3	2	2	1		
	No. 2	6	4	5	3	4	3	4	2	3	2	2	1		
	No. 3	6	4	5	3	4	3	4	2	3	2	2	1		
	No. 4	6	4	5	3	4	3	4	2	3	2	2	1		
	No. 5	6	4	5	3	4	3	4	2	3	2	2	1		
	No. 6	6	4	5	3	4	3	4	2	3	2	2	1		
	No. 7	6	4	5	3	4	3	4	2	3	2	2	1		
	No. 8	6	4	5	3	4	3	4	2	3	2	2	1		
House domestic	House	3	3	3	3	3	3	3	3	3	3	3	3		
	Petitions	6	4	5	3	4	3	4	2	3	2	2	1		
	Privileges and Members' Interests	6	5	6	5	6	5	6	5	6	5	6	5		
	Procedure	4	3	4	3	4	3	4	3	4	3	4	3		
	Publications	4	3	4	3	4	3	4	3	4	3	4	3		
Joint (standing or statutory)	Australian Commission for Law Enforcement Integrity	3	2	3	2	3	2	3	2	3	2	3	2		
	Australian Crime Commission	3	2	3	2	3	2	3	2	3	2	3	2		
	Broadcasting of Parliamentary Proceedings	3	2	3	2	3	2	3	2	3	2	3	2		
	Corporations and Financial Services	3	2	3	2	3	2	3	2	3	2	3	2		
	Electoral Matters	3	2	3	2	3	2	3	2	3	2	3	2		
	Foreign Affairs, Defence and Trade	13	9	13	9	13	9	13	9	13	9	13	9		
	Intelligence and Security	3	2	3	2	3	2	3	2	3	2	3	2		
	Migration	3	3	3	3	3	3	3	3	3	3	3	3		
	National Capital and External Territories	3	2	3	2	3	2	3	2	3	2	3	2		
	Parliamentary Library	4	3	4	3	4	3	4	3	4	3	4	3		
	Public Accounts and Audit	6	4	6	4	6	4	6	4	6	4	6	4		
	Public Works	3	3	3	3	3	3	3	3	3	3	3	3		
	Treaties	6	3	6	3	6	3	6	3	6	3	6	3		
<b>Totals</b>			26 committees	127	89	118	80	109	80	109	71	100	71	91	62
<b>Average positions available per private Member</b>			<i>government/non-government</i>	2.6	1.3	2.4	1.2	2.2	1.2	2.2	1.1	2.0	1.1	1.9	0.9
<b>Overall reduction in the number of committee positions</b>			<b>overall</b>	<b>1.9</b>		<b>1.7</b>		<b>1.6</b>		<b>1.6</b>		<b>1.5</b>		<b>1.3</b>	
				40		58		67		76		85		103	

**Table 6 Alternative models of committee membership; number of general purpose standing committees reduced to 10; domestic committee membership reduced to five (except Petitions, which is treated as a general purpose standing committee, and Privileges and Members' Interests)**

Type	Committee name	10 (current)		8		7		6		5		3	
		G	N	G	N	G	N	G	N	G	N	G	N
House general purpose standing	No. 1	6	4	5	3	4	3	4	2	3	2	2	1
	No. 2	6	4	5	3	4	3	4	2	3	2	2	1
	No. 3	6	4	5	3	4	3	4	2	3	2	2	1
	No. 4	6	4	5	3	4	3	4	2	3	2	2	1
	No. 5	6	4	5	3	4	3	4	2	3	2	2	1
	No. 6	6	4	5	3	4	3	4	2	3	2	2	1
	No. 7	6	4	5	3	4	3	4	2	3	2	2	1
	No. 8	6	4	5	3	4	3	4	2	3	2	2	1
	No. 9	6	4	5	3	4	3	4	2	3	2	2	1
	No. 10	6	4	5	3	4	3	4	2	3	2	2	1
House domestic	House	2	2	2	2	2	2	2	2	2	2	2	2
	Petitions	6	4	5	3	4	3	4	2	3	2	2	1
	Privileges and Members' Interests	6	5	6	5	6	5	6	5	6	5	6	5
	Procedure	3	2	3	2	3	2	3	2	3	2	3	2
	Publications	3	2	3	2	3	2	3	2	3	2	3	2
Joint (standing or statutory)	Australian Commission for Law Enforcement Integrity	3	2	3	2	3	2	3	2	3	2	3	2
	Australian Crime Commission	3	2	3	2	3	2	3	2	3	2	3	2
	Broadcasting of Parliamentary Proceedings	3	2	3	2	3	2	3	2	3	2	3	2
	Corporations and Financial Services	3	2	3	2	3	2	3	2	3	2	3	2
	Electoral Matters	3	2	3	2	3	2	3	2	3	2	3	2
	Foreign Affairs, Defence and Trade	13	9	13	9	13	9	13	9	13	9	13	9
	Intelligence and Security	3	2	3	2	3	2	3	2	3	2	3	2
	Migration	3	3	3	3	3	3	3	3	3	3	3	3
	National Capital and External Territories	3	2	3	2	3	2	3	2	3	2	3	2
	Parliamentary Library	4	3	4	3	4	3	4	3	4	3	4	3
	Public Accounts and Audit	6	4	6	4	6	4	6	4	6	4	6	4
	Public Works	3	3	3	3	3	3	3	3	3	3	3	3
	Treaties	6	3	6	3	6	3	6	3	6	3	6	3
<b>Totals</b>	28 committees	136	94	125	83	114	83	114	72	103	72	92	61
<b>Average positions available per private Member</b>	<i>government/non-government</i>	2.8	1.4	2.6	1.3	2.3	1.3	2.3	1.1	2.1	1.1	1.9	0.9
<b>Overall reduction in the number of committee positions</b>	<b>overall</b>	<b>2.0</b>		<b>1.8</b>		<b>1.7</b>		<b>1.6</b>		<b>1.5</b>		<b>1.3</b>	
		26		48		59		70		81		103	

**Table 7 Alternative models of committee membership; number of general purpose standing committees reduced to eight; domestic committee membership reduced to five (except Petitions, which is treated as a general purpose standing committee, and Privileges and Members' Interests)**

Type	Committee name	10 (current)		8		7		6		5		3	
		G	N	G	N	G	N	G	N	G	N	G	N
House general purpose standing	No. 1	6	4	5	3	4	3	4	2	3	2	2	1
	No. 2	6	4	5	3	4	3	4	2	3	2	2	1
	No. 3	6	4	5	3	4	3	4	2	3	2	2	1
	No. 4	6	4	5	3	4	3	4	2	3	2	2	1
	No. 5	6	4	5	3	4	3	4	2	3	2	2	1
	No. 6	6	4	5	3	4	3	4	2	3	2	2	1
	No. 7	6	4	5	3	4	3	4	2	3	2	2	1
	No. 8	6	4	5	3	4	3	4	2	3	2	2	1
House domestic	House	2	2	2	2	2	2	2	2	2	2	2	2
	Petitions	6	4	5	3	4	3	4	2	3	2	2	1
	Privileges and Members' Interests	6	5	6	5	6	5	6	5	6	5	6	5
	Procedure	3	2	3	2	3	2	3	2	3	2	3	2
	Publications	3	2	3	2	3	2	3	2	3	2	3	2
Joint (standing or statutory)	Australian Commission for Law Enforcement Integrity	3	2	3	2	3	2	3	2	3	2	3	2
	Australian Crime Commission	3	2	3	2	3	2	3	2	3	2	3	2
	Broadcasting of Parliamentary Proceedings	3	2	3	2	3	2	3	2	3	2	3	2
	Corporations and Financial Services	3	2	3	2	3	2	3	2	3	2	3	2
	Electoral Matters	3	2	3	2	3	2	3	2	3	2	3	2
	Foreign Affairs, Defence and Trade	13	9	13	9	13	9	13	9	13	9	13	9
	Intelligence and Security	3	2	3	2	3	2	3	2	3	2	3	2
	Migration	3	3	3	3	3	3	3	3	3	3	3	3
	National Capital and External Territories	3	2	3	2	3	2	3	2	3	2	3	2
	Parliamentary Library	4	3	4	3	4	3	4	3	4	3	4	3
	Public Accounts and Audit	6	4	6	4	6	4	6	4	6	4	6	4
	Public Works	3	3	3	3	3	3	3	3	3	3	3	3
	Treaties	6	3	6	3	6	3	6	3	6	3	6	3
<b>Totals</b>	26 committees	124	86	115	77	106	77	106	68	97	68	88	59
<b>Average positions available per private Member</b>	<i>government/non-government overall</i>	2.5	1.3	2.3	1.2	2.2	1.2	2.2	1.0	2.0	1.0	1.8	0.9
<b>Overall reduction in the number of committee positions</b>		<b>1.8</b>		<b>1.7</b>		<b>1.6</b>		<b>1.5</b>		<b>1.4</b>		<b>1.3</b>	
		46		64		73		82		91		109	



**Table 8 Comparison of alternative membership models: effect of excluding shadow spokespersons from committee membership**

			<b>10 (current)</b>		<b>8</b>		<b>7</b>		<b>6</b>		<b>5</b>		<b>3</b>	
			<i>G</i>	<i>N</i>	<i>G</i>	<i>N</i>	<i>G</i>	<i>N</i>	<i>G</i>	<i>N</i>	<i>G</i>	<i>N</i>	<i>G</i>	<i>N</i>
<b>TABLE 3 – No reduction in number of committees</b>														
Totals	30 committees		151	105	138	92	125	92	125	79	112	79	99	66
Average positions per private Member <sup>1</sup>	government/non-government		3.1	1.6	2.8	1.4	2.6	1.4	2.6	1.2	2.3	1.2	2.0	1.0
	<b>overall</b>		<b>2.2</b>		<b>2.0</b>		<b>1.9</b>		<b>1.8</b>		<b>1.7</b>		<b>1.4</b>	
Average positions per backbench Member <sup>2</sup>	government/non-government		3.1	2.8	2.8	2.5	2.6	2.5	2.6	2.1	2.3	2.1	2.0	1.8
	<b>overall</b>		<b>3.0</b>		<b>2.7</b>		<b>2.5</b>		<b>2.4</b>		<b>2.2</b>		<b>1.9</b>	
<b>TABLE 4 – Number of general purpose standing committees reduced to 10</b>														
Totals	28 committees		139	97	128	86	117	86	117	75	106	75	95	64
Average positions per private Member	government/non-government		2.8	1.5	2.6	1.3	2.4	1.3	2.4	1.1	2.2	1.1	1.9	1.0
	<b>overall</b>		<b>2.1</b>		<b>1.9</b>		<b>1.8</b>		<b>1.7</b>		<b>1.6</b>		<b>1.4</b>	
Average positions per backbench Member	government/non-government		2.8	2.6	2.6	2.3	2.4	2.3	2.4	2.0	2.2	2.0	1.9	1.7
	<b>overall</b>		<b>2.7</b>		<b>2.5</b>		<b>2.4</b>		<b>2.2</b>		<b>2.1</b>		<b>1.8</b>	
<b>TABLE 5 – Number of general purpose standing committees reduced to eight</b>														
Totals	26 committees		127	89	118	80	109	80	109	71	100	71	91	62
Average positions per private Member	government/non-government		2.6	1.3	2.4	1.2	2.2	1.2	2.2	1.1	2.0	1.1	1.9	0.9
	<b>overall</b>		<b>1.9</b>		<b>1.7</b>		<b>1.6</b>		<b>1.6</b>		<b>1.5</b>		<b>1.3</b>	
Average positions per backbench Member	government/non-government		2.6	2.4	2.4	2.2	2.2	2.2	2.2	1.9	2.0	1.9	1.9	1.7
	<b>overall</b>		<b>2.5</b>		<b>2.3</b>		<b>2.2</b>		<b>2.1</b>		<b>2.0</b>		<b>1.8</b>	
<b>TABLE 6 – Number of general purpose standing committees reduced to 10; domestic committee* membership reduced to five</b>														
Totals	28 committees		136	94	125	83	114	83	114	72	103	72	92	61
Average positions per private Member	government/non-government		2.8	1.4	2.6	1.3	2.3	1.3	2.3	1.1	2.1	1.1	1.9	0.9
	<b>overall</b>		<b>2.0</b>		<b>1.8</b>		<b>1.7</b>		<b>1.6</b>		<b>1.5</b>		<b>1.3</b>	
Average positions per backbench Member	government/non-government		2.8	2.5	2.6	2.2	2.3	2.2	2.3	1.9	2.1	1.9	1.9	1.6
	<b>overall</b>		<b>2.7</b>		<b>2.4</b>		<b>2.3</b>		<b>2.2</b>		<b>2.0</b>		<b>1.8</b>	
<b>TABLE 7 – Number of general purpose standing committees reduced to eight; domestic committee* membership reduced to five</b>														
Totals	26 committees		124	86	115	77	106	77	106	68	97	68	88	59
Average positions per private Member	government/non-government		2.5	1.3	2.3	1.2	2.2	1.2	2.2	1.0	2.0	1.0	1.8	0.9
	<b>overall</b>		<b>1.8</b>		<b>1.7</b>		<b>1.6</b>		<b>1.5</b>		<b>1.4</b>		<b>1.3</b>	
Average positions per backbench Member	government/non-government		2.5	2.3	2.3	2.1	2.2	2.1	2.2	1.8	2.0	1.8	1.8	1.6
	<b>overall</b>		<b>2.4</b>		<b>2.2</b>		<b>2.1</b>		<b>2.0</b>		<b>1.9</b>		<b>1.7</b>	

**NOTES**

1 Private Members are all Members, excluding Ministers and Parliamentary Secretaries.

2 Backbench Members are all private Members, excluding Shadow Ministers and Shadow Parliamentary Secretaries.

\* Except the Petitions Committee (which is treated as a general purpose standing committee) and the Committee of Privileges and Members' Interests.





## **Appendix G: Government responses**

Speaker's schedule, presented 26 November 2009, listing committee reports to which a government response had not been received within six months. The schedule is also reproduced in the House of Representatives *Hansard* (26.11.2009, pp. 13074-9).

### **THE SPEAKER'S SCHEDULE OF OUTSTANDING GOVERNMENT RESPONSES TO REPORTS OF HOUSE OF REPRESENTATIVES AND JOINT COMMITTEES**

(also incorporating reports tabled and details of Government responses made in the period between 25 June 2009, the date of the last schedule, and 25 November 2009)

26 November 2009

## **THE SPEAKER'S SCHEDULE OF OUTSTANDING GOVERNMENT RESPONSES**

### **TO COMMITTEE REPORTS**

The attached schedule lists committee reports tabled and government responses to House and joint committee reports made since the last schedule was presented on 25 June 2009. It also lists reports for which the House has not received a government response. Schedules of outstanding responses will continue to be presented at approximately six monthly intervals, generally in the last sitting weeks of the winter and spring sittings.

The schedule does not include advisory reports on bills introduced into the House of Representatives unless the reports make recommendations which are wider than the provisions of the bills and which could be the subject of a government response. The Government's response to these reports is apparent in the resumption of consideration of the relevant legislation by the House. Also not included are reports from the Parliamentary Standing Committee on Public Works, the House of Representatives Committee of Privileges and Members' Interests, and the Publications Committee (other than reports on inquiries). Government responses to reports of the Public Works Committee are normally reflected in motions for the approval of works after the relevant report has been presented and considered. Reports from other committees which do not include recommendations are only included when first tabled.

Reports of the Joint Committee of Public Accounts and Audit primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an Executive Minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an Executive Minute within 6 months of tabling a report. The committee monitors the provision of such responses. Reports which do not contain policy recommendations are only included when first tabled.

November 2009

Description of Report	Date Tabled or Published <sup>1</sup>	Date of Government Response <sup>2</sup>	Responded in Period Specified <sup>3</sup>
<b>Aboriginal and Torres Strait Islander Affairs (House, Standing)</b>			
Indigenous Australia at work: Successful initiative in Indigenous employment	13-08-07	No response to date	No
Open for business: Developing Indigenous enterprises in Australia	20-10-08	No response to date	No
Everybody's Business: Remote Aboriginal and Torres Strait Islander Community Stores	16-11-09	Time has not expired	No
<b>Agriculture, Fisheries and Forestry (House, Standing)</b>			
Taking control: a national approach to pest animals	28-11-05	No response to date	No
Skills: Rural Australia's need	26-02-07	No response to date	No
<b>Australian Commission for Law Enforcement Integrity (Joint, Statutory)</b>			
Inquiry into Law Enforcement Integrity models	23-02-09	No response to date	No
Examination of the annual report of the Integrity Commissioner 2007-08	01-06-09	No response to date	No
<b>Australian Crime Commission (Joint, Statutory)</b>			
Review of the <i>Australian Crime Commission Act 2002</i>	10-11-05	No response to date	No
Examination of the Australian Crime Commission Annual Report 2004-2005	19-10-06	No response to date	No
Inquiry into the manufacture, importation and use of amphetamines and other synthetic drugs (AOSD)	28-02-07	No response to date	No
Inquiry into the future impact of serious and organised crime on Australian Society	19-09-07	No response to date	No
Examination of the Australian Crime Commission Annual Report 2006-07	18-06-08	No response to date	No
Inquiry into the <i>Australian Crime Commission Amendment Act 2007</i>	4-09-08	No response to date	No
Examination of the Australian Crime Commission Annual Report 2007-08	22-06-09	No response to date	No
Legislative arrangements to outlaw serious and organised crime groups	17-08-09	No response to date	No
<b>Climate Change, Water, Environment and the Arts (House, Standing)</b>			
Managing our coastal zone in a changing climate: the time to act is now	26-10-09	Time has not expired	

Description of Report	Date Tabled or Published <sup>1</sup>	Date of Government Response <sup>2</sup>	Responded in Period Specified <sup>3</sup>
<b>Communications, Information Technology and the Arts (House, Standing)</b>			
Digital Television: Who's Buying It?	13-02-06	No response to date	No
Community Television: Options for digital broadcasting	12-02-07	No response to date	No
Report: Tuning in to community broadcasting	20-06-07	No response to date	No
<b>Corporations and Securities (Joint, Statutory)</b>			
Report on aspects of the regulation of proprietary companies	08-03-01	11-08-09	No
<b>Corporations and Financial Services (Joint, Statutory)</b>			
Report on the regulations and ASIC policy statements made under the <i>Financial Services Reform Act 2001</i>	23-10-02	No response to date	No
Inquiry into the review of the <i>Managed Investments Act 1998</i>	12-12-02	No response to date	No
Inquiry into Regulation 7.1.29 in Corporations Amendment Regulations 2003 (No.3), Statutory Rules 2003 No.85	26-06-03	No response to date	No
Money matters in the bush-Inquiry into the level of banking & financial services in rural, regional & remote areas of Australia	15-01-04	No response to date <sup>4</sup>	No
Report on the ATM fee structure	15-01-04	No response to date <sup>5</sup>	No
Corporations amendment regulations 2003	24-03-04	No response to date	No
Corporations Amendment Regulations 7.1.29A, 7.1.35A and 7.1.40(h)	02-06-04	No response to date	No
Property investment advice – Safe as houses?	23-06-05	No response to date	No
Statutory oversight of the Australian Securities and Investments Commission, December 2005	13-02-06	No response to date	No
Corporate responsibility: Managing risk and creating value	21-06-06	No response to date	No
Structure and operation of the superannuation industry	07-08-07	No response to date	No
Statutory oversight of the Australian Securities and Investments Commission, August 2007	09-08-07	No response to date	No
Better shareholders – Better company: Shareholder engagement and participation in Australia	23-06-08	No response to date	No
Opportunity not opportunism: Improving conduct in Australian franchising	01-12-08	16-11-09	No
Statutory oversight of the Australian Securities and Investments Commission	23-02-09	No response to date	No

Description of Report	Date Tabled or Published <sup>1</sup>	Date of Government Response <sup>2</sup>	Responded in Period Specified <sup>3</sup>
Aspects of agribusiness managed investment schemes	07-09-09	Time has not expired	No
Statutory oversight of the Australian Securities and Investments Commission	14-09-09	Time has not expired	
Inquiry into financial products and services in Australia	23-11-09	Time has not expired	No
<b>Economics, Finance and Public Administration (House, Standing)</b>			
Review of the Australian Competition and Consumer Commission annual report 2003	21-06-04	No response to date	No
Improving the superannuation savings of people under 40	19-06-06	No response to date <sup>6</sup>	No
Australian manufacturing: Today and tomorrow	13-08-07	02-02-10	No
Inquiry into home loan lending practices and processes used to deal with people in financial difficulty	17-09-07	No response to date <sup>7</sup>	
<b>Economics (House, Standing)</b>			
Competition in the banking and non-banking sectors	21-11-08	No response to date <sup>8</sup>	No
Review of the Reserve Bank of Australia annual report 2008 (second report)	16-11-09	No response required	
<b>Education and Training (House, Standing)</b>			
Review of the Department of Education, Science and Training annual report 2006-07	01-06-09	No response to date	No
Adolescent Overload? Report of the inquiry into combining school and work: supporting successful youth transitions	16-11-09	Time has not expired	
<b>Electoral Matters (Joint, Standing)</b>			
Report on the 2007 federal election electronic voting trials" Interim report of the inquiry into the conduct of the 2007 election and matters related thereto	16-03-09	17-09-09	No
Report on the conduct of the 2007 federal election and matters related thereto	22-06-09	No response to date	No
Advisory report on the Commonwealth Electoral (Above-the-Line voting) Amendment Bill 2008	22-06-09	No response required	
<b>Employment and Workplace Relations and Workforce Participation (House, Standing)</b>			
Making it work: Inquiry into independent contracting and labour hire arrangements	17-08-05	No response to date <sup>9</sup>	No

Description of Report	Date Tabled or Published <sup>1</sup>	Date of Government Response <sup>2</sup>	Responded in Period Specified <sup>3</sup>
<b>Employment and Workplace Relations (House, Standing)</b>			
Making it Fair: Pay equity and associated issues related to increasing female participation in the workforce	23-11-09	Time has not expired	
<b>Environment and Heritage (House, Standing)</b>			
Sustainable cities	12-09-05	No response to date	No
Sustainability for survival - Creating a climate for change: Report on the inquiry into a sustainability charter	17-09-07	No response to date	No
<b>Family and Human Services (House, Standing)</b>			
Balancing work and family	26-11-09	No response to date <sup>10</sup>	No
The winnable war on drugs: The impact of illicit drug use on families	13-09-07	No response to date <sup>11</sup>	No
<b>Family, Community, Housing and Youth (House, Standing)</b>			
Who cares...?: Report on the inquiry into better support for carers	22-04-09	29-10-09	No
<b>Foreign Affairs, Defence and Trade (Joint, Standing)</b>			
Review of the Defence annual report 2006-2007	01-12-08	No response to date	No
Australia's relationship ASEAN	24-06-09	No response to date	No
Sealing a just outcome: Report from the inquiry into RAAF F-111 Deseal/Reseal workers and their families	25-06-09	No response to date	No
Australia's relationship with India as an emerging world power	07-07-09	No response to date	No
Review of the Defence Annual Report 2007-2008	29-10-09	Time has not expired	
<b>Health and Ageing (House, Standing)</b>			
The Blame Game: Report on the inquiry into health funding	04-12-06	No response to date <sup>12</sup>	No
Weighing it up: Obesity in Australia	01-06-09	No response to date	No
Treating impotence. Roundtable forum on impotence medications in Australia	23-11-09	No response required	
<b>Industry, Science and Innovation (House, Standing)</b>			
Research Training in Australian Universities: An Interim Report	24-10-08	17-09-09	No
Building Australia's research capacity – Final Report	01-12-08	17-09-09	No
Seasonal forecasting in Australia	23-11-09	Time has not expired	



Description of Report	Date Tabled or Published <sup>1</sup>	Date of Government Response <sup>2</sup>	Responded in Period Specified <sup>3</sup>
<b>Infrastructure, Transport, Regional Development and Local Government (House, Standing)</b>			
Rebuilding Australia's coastal shipping industry: Inquiry into coastal shipping policy and regulation	20-10-08	No response to date	No
Funding regional and local community infrastructure: Proposals for the new regional and local community infrastructure program – Interim Report	05-11-08	No response to date	No
Funding regional and local community infrastructure: Principles for the development of a regional and local community infrastructure funding program – Final Report	01-06-09	No response to date	No
Level crossing safety: An update to the 2004 Train Illumination Report	22-06-09	No response to date	No
The global financial crisis and regional Australia	23-11-09	Time has not expired	
<b>Intelligence and Security (Joint, Statutory)</b>			
Review of the re-listing of six terrorist organisations under the Criminal Code Act 1995	15-06-09	No response to date	No
Review of the re-listing of Hizballah's External Security Organisation (ESO) as a terrorist organisation	25-06-09	No response to date	No
Review of Administration and Expenditure No. 6: Australian Intelligence Agencies	07-09-09	Time has not expired	
Annual report of Committee Activities 2008-2009	26-10-09	Time has not expired	
Review of the listing of Al-Shabaab as a terrorist organisation	26-10-09	Time has not expired	
<b>Legal and Constitutional Affairs (House, Standing)</b>			
The long road to statehood: Report of the inquiry into the federal implications of statehood for the Northern Territory	28-05-07	22-10-09	No
Inquiry into older people and the law	20-09-07	No response to date	No
Reforming the Constitution: A roundtable discussion	23-06-08	No response to date	No
Whistleblower protection: a comprehensive scheme for the Commonwealth public sector	23-02-09	No response to date	No
Access All Areas: Report of the inquiry into Draft Disability (Access to Premises – Buildings) Standards	15-06-09	No response to date	No

Description of Report	Date Tabled or Published <sup>1</sup>	Date of Government Response <sup>2</sup>	Responded in Period Specified <sup>3</sup>
<b>Migration (Joint, Standing)</b>			
Negotiating the maze: Review of arrangements for overseas skills recognition, upgrading and license	11-09-06	No response to date	No
Temporary visas ... permanent benefits: Ensuring the effectiveness and integrity of the temporary business visa program	12-09-07	10-09-09	No
Immigration detention in Australia: A new beginning – Criteria for release from immigration detention	01-12-08	No response to date	No
Immigration detention in Australia: Community-based alternatives to detention	25-05-09	No response to date	No
Immigration detention in Australia: Facilities, services and transparency	18-08-09	No response to date	No
<b>National Capital and External Territories (Joint, Standing)</b>			
Inquiry into the Immigration Bridge Proposal	29-05-09	No response to date	No
<b>Petitions (House, Standing)</b>			
Electronic Petitioning to the House of Representatives	16-11-09	Time has not expired	
<b>Primary Industries and Resources (House, Standing)</b>			
More than honey: The future of the Australian honey bee and pollination industries	16-06-08	12-08-09	No
<b>Procedure (House, Standing)</b>			
Motion to suspend standing orders and condemn a Member: Report on events of 10 October 2006	07-12-06	No response to date	No
Re-opening the debate: Inquiry into the arrangements for the opening day of Parliament	23-10-08	No response to date	No
The display of articles: An examination of the practice of the House of Representatives	19-10-09	No response required	
<b>Public Accounts and Audit (Joint, Statutory)</b>			
Report 413 – The Efficiency Dividend: Size does Matter	4-12-08	No response to date	No
Review of Auditor-General's Reports tabled between August 2007 and August 2008 (Report 414)	22-06-09	No response to date	No
Report 415 – Review of Auditor-General's Reports tabled between September 2008 and January 2009	16-11-09	Time has not expired	
Report 416 – Review of the Major Projects Report 2007-08	16-11-09	Time has not expired	

Description of Report	Date Tabled or Published <sup>1</sup>	Date of Government Response <sup>2</sup>	Responded in Period Specified <sup>3</sup>
<b>Publications (Joint, Standing)</b>			
Printing standards for documents presented to Parliament	20-09-07	10-09-09	No
<b>Science and Innovation (House, Standing)</b>			
Between a rock and a hard place: The science of geosequestration	13-08-07	No response to date	No
<b>Transport and Regional Services (House, Standing)</b>			
The great freight task: Is Australia's transport network up to the challenge?	13-08-07	No response to date	No
<b>Treaties (Joint, Standing)</b>			
The Australia – United States Free Trade Agreement (61 <sup>st</sup> Report)	23-06-04	No response to date <sup>13</sup>	No
Treaty tabled on 12 March 2008 (91 <sup>st</sup> Report)	26-06-08	No response to date	No
Treaties tabled on 14 May 2008 (94 <sup>th</sup> Report)	18-09-08	No response to date	No
Treaties tabled on 4 June, 17 June, 25 June and 26 August 2008 (95 <sup>th</sup> Report)	16-10-08	22-10-09 <sup>14</sup>	No
Treaties tabled on 3 December 2008 and 3 February 2009 (99 <sup>th</sup> Report)	12-03-09	No response to date	No
Treaties tabled on 25 June 2008 (2) (100 <sup>th</sup> Report)	19-03-09	No response to date	No
Treaties tabled 12 and 16 March 2009 (102 <sup>nd</sup> Report)	24-06-09	No response to date	No
Treaties tabled on 12 March and 13 May 2009 (103 <sup>rd</sup> Report)	18-08-09	No response to date	No
Treaties tabled on 20 August 2009 (104 <sup>th</sup> Report)	09-09-09	No response required	
Treaties tabled on 13 May, 25 June and 20 August (105 <sup>th</sup> Report)	14-09-09	Time has not expired	
Nuclear Non-proliferation and Disarmament (106 <sup>th</sup> Report)	17-09-09	Time has not expired <sup>4</sup>	
Treaties tabled on 20 August (2) and 15 September 2009 (107 <sup>th</sup> Report)	16-11-09	Time has not expired	

**NOTES**

- 1 The date of tabling is the date the report was presented to the House of Representatives or to the Speaker, whichever is earlier. In the case of joint committees, the date shown is the date of first presentation to either the House or the Senate. Reports published when the House (or Houses) are not sitting are tabled at a later date.
- 2 If the source for the date is not the Votes and Proceedings of the House of Representatives or the Journals of the Senate, the source is shown in an endnote.
- 3 The time specified is three months from the date of tabling.
- 4 In November 2009 the Treasurer's office advised that the government did not intend to respond to this report as there have been significant changes to banking and financial services regulation since the inquiry.
- 5 In November 2009 the government indicated that as this report is a subsidiary report to *Money Matters in the Bush*, it did not intend to respond to this report.

- 6 In June 2009 the government indicated it did not propose to respond to the report. It noted the report's recommendations fall within the scope of the Review of Australia's Future Tax System and the proposed review of the Operation and Efficiency of the Superannuation System. In November 2009 the government also noted that the report recommendations are out of date, having been overtaken by subsequent changes and review of the superannuation system.
- 7 In November 2009 the government indicated that Phase 1 of the National Consumer Credit Reforms addresses the report recommendations. The government does not intend to provide a response to the report.
- 8 On 14 May a partial response to the report was presented from the Reserve Bank of Australia
- 9 In June 2009 the government advised that it did not intend to respond formally to this report. The committee awaits a response to recommendations of the report. In November 2009 the government indicated a response is being considered and will be tabled in due course.
- 10 In November 2009 the Committee resolved that it no longer required a response to this report. It will therefore be deleted from future schedules.
- 11 In November 2009 the Committee resolved that it no longer required a response to this report. It will therefore be deleted from future schedules.
- 12 In November 2009 the Committee resolved that it no longer required a response to this report. It will therefore be deleted from future schedules.
- 13 Legislation to give effect to the Free Trade Agreement has now been passed. The government in 2006 stated that no further response was required. The committee awaits a response to recommendations of the Free Trade Agreement report.
- 14 Partial response – recommendations 6, 7 and 11 only