

Changes to Question Time and committees

- 4.1 As well as increasing opportunities for participation by private Members, the *Agreement for a Better Parliament: Parliamentary Reform* (the Agreement) includes an array of proposals and some of these are non-procedural. This chapter examines in more detail the application and implications of procedural changes affecting Question Time and the structure and operation of House committees.¹
- 4.2 Comments are principally based on information and observations from the early stages of the 43rd Parliament. Therefore they are preliminary and do not pre-empt conclusions that the Committee may reach after a longer period of implementation.

Reforms to Question Time

- 4.3 Question Time is a very public measure of accountability and an important feature of responsible government. It takes place at 2.00 pm each sitting Monday to Thursday. As a result of the Agreement, significant procedural changes to Question Time were adopted by the House at the beginning of the 43rd Parliament. On introducing the package of reforms, the Leader of the House observed:

¹ Most of the reforms to the House committee system included in the Agreement reflect recommendations made by the 42nd Parliament's Procedure Committee in its report *Building a modern committee system: An inquiry into the effectiveness of committees*.

Question time is the public face of the parliament and is often the Australian community's only perception of the workings of parliament. The adversarial nature of question time has thereby contributed to a perception that parliament is purely combative. The government is committed to ensuring that question time portrays a more balanced view of the workings of the parliament.²

- 4.4 In brief, the changes include amendments to standing orders to prescribe time limits for questions and answers,³ a requirement that answers be 'directly relevant' and a limit of one point of order on relevance for each question.⁴ In addition, several informal arrangements have been implemented. These include provision for a supplementary question by the Leader of the Opposition or his delegate, the guarantee of a proportionate share of questions for non-aligned Members, and an undertaking by Members to minimise the use of notes during questions and answers.⁵ Table 4.1 provides a comparative summary of the key features of Question Time from the 41st to the 43rd parliaments.

Table 4.1 Comparison of key features of Question Time

	Questions without notice		
	41 st Parliament	42 nd Parliament	43 rd Parliament (Spring 2010)
Average duration of Question Time*	1 hour 7 minutes	1 hour 32 minutes	1 hour 23 minutes
Average number of questions per Question Time	18.7	18.6	18.6 (19.6)**
Average length of question	Figure not recorded	25 seconds	23 seconds
Average length of response	2 minutes 24 seconds	3 minutes 37 seconds	3 minutes 3 seconds
% of questions asked by government	49.0	49.7	49.3
% of questions asked by opposition	48.5	48.3	45.7
% of questions asked by Independent/ non-aligned Members	2.4	2.0	5.1
Average points of order per Question Time	Figure not recorded	10.7	7.4

Source: Chamber Research Office statistics as at 22 December 2010.

* rounded to nearest full minute.

** average of 19.6 questions if the supplementary question is included.

Note: Except where indicated, figures do not include data for supplementary questions.

2 HR Deb, 29 Sept 2010, 131.

3 Standing order 100(f) and 104(c), 20 October 2010, limit the duration of questions to 45 seconds and answers to 4 minutes.

4 Standing order 104, 20 October 2010.

5 *Agreement for a Better Parliament: Parliamentary Reform*, Clauses 4.2, 4.6 and 4.8.

4.5 For the first time, standing orders now impose a time limit on questions. Questions must not exceed 45 seconds. This has had little impact on the length of questions by government or opposition Members (see Table 4.2). Standing orders relating to the content of questions have not changed. The Speaker has made a number of statements indicating his intention to strictly adhere to the rules governing questions (standing order 100).⁶ The Speaker has also referred to the nature and content of questions impacting on his ruling on answers. For example, following a point of order on the content of a supplementary question, the Speaker stated:

I just indicate, as I have indicated over the past few weeks, that when we have a question couched in the terms that this one has been couched in it opens the door very wide on direct relevance.⁷

Table 4.2 Average length of questions without notice – first sitting period of 42nd and 43rd Parliaments

Autumn 2008 – 42nd Parliament				Spring 2010 – 43rd Parliament			
	<i>Govt</i>	<i>Non-Govt</i>	<i>Total</i>		<i>Govt</i>	<i>Non-Govt</i>	<i>Total</i>
Questions	130	130	260	Questions	165	170	335
Time (mins)	38:15	76:31	114:46	Time (mins)	39:47	90:45	130:32
Average	0:17	0:35	0:26	Average	0:14	0:32	0:23

Source: Chamber Research Office statistics, 2011.

Note: Figures do not include out of order or supplementary questions.

4.6 Time limits on answers have also been introduced for the first time. Time limits have reduced the average length of answers from 3 minutes 37 seconds in the previous parliament, to 3 minutes 3 seconds in the first five weeks of the 43rd Parliament. The time limit has had little impact on the length of answers to opposition Members' questions. It has had a greater impact on the long-standing practice of ministers to give longer answers to government questions than to questions by opposition and non-aligned Members. In the 42nd Parliament, the average length of answers to questions from government Members was 4 minutes 52 seconds, compared to 2 minutes 23 seconds for non-government questions. The time limits have resulted in a more balanced distribution of time, with the average length of answers to government questions now 3 minutes 33

⁶ See, for example, HR Deb 29 September 2010, 181; and HR Deb, 30 September 2010, 334.

⁷ HR Deb, 23 November, 3427.

seconds, compared to 2 minutes 34 seconds for answers to questions by opposition and non-aligned Members.⁸

4.7 As noted above, standing orders were changed to require answers to be ‘directly relevant’ to the question.⁹

4.8 Previously, standing orders required that answers be ‘relevant to the question’.¹⁰ *House of Representatives Practice* describes the application of the previous standing order:

The interpretation of “relevant” has at times been very wide, with a basic requirement being that an answer must maintain a link to the substance of the question. In practice the word has been frequently accepted by the Chair as meaning relevant in some way or relevant in part, rather than directly or completely relevant.¹¹

4.9 The interpretation of the new requirement for answers to be ‘directly relevant’ rests with the Speaker. The Speaker noted that his interpretation of the intent of the Agreement in strengthening the relevancy requirement was ‘that there be less debate in answers.’¹²

4.10 Opposition Members have frequently criticised the broad interpretation of ‘relevance’, arguing that responses from Ministers are insufficiently relevant to questions. Repeatedly during the 43rd Parliament, the Speaker has expressed his regret that the changes did not apply the same rules to answers as to questions:¹³

Ad nauseam, I have suggested that the same standing order should apply to answers as applies to the questions. It would have been a much better solution than “directly relevant”. It would have meant that question time is not about the debate; you can have the debate on other occasions. I am happy to entertain discussions about that, but I am also of a mind that the amount of banter that goes on – I agree, from both sides of the chamber – could well be reduced, and question time could revert – if it has ever been – to an occasion when it has been about the discussion and debate on the matters of ideas rather than personalities. I would agree that the amount of debate that is in the answers is a big part of the problem that any occupant of the chair confronts.

8 Chamber Research Office statistics as at 22 December 2010.

9 Standing order 104(a), 20 October 2010.

10 Standing order 104, 1 December 2008.

11 *House of Representatives Practice*, 5 ed., p 553.

12 HR Deb, 28 October 2010, 2063.

13 Standing order 100, 20 October 2010, provides the general rules which apply to all questions.

Something which I have been consistent on is that I cannot fathom why the House does not contemplate applying the same rules to the answers as it does to the questions.¹⁴

- 4.11 The Manager of Opposition Business on behalf of the Coalition indicated support for extending the same requirements to answers.¹⁵
- 4.12 In the past, oppositions have typically raised numerous points of order on relevance, often more than once in relation to a single answer. Criticisms of this included its tendency to be disruptive and to be used to point score. Standing orders were amended to limit points of order on relevance to one per question. The average number of points of order during Question Time has reduced from 10.7 in the 42nd Parliament, to 7.4 in the first sitting period of the 43rd Parliament.¹⁶ The Coalition suggested the entitlement to a single point of order on relevance per question has become an issue because the 'direct relevance' change has not had the desired effect:

Once the point of order has been made Ministers are increasingly attempting to answer on a point scoring tangent in full knowledge that there is little recourse available to the Opposition.¹⁷

- 4.13 A further proposal made under the Agreement is for the Leader of the Opposition or his delegate to have the option of asking one supplementary question each Question Time to clarify an answer. Although already provided for in the standing orders¹⁸, supplementary questions have not been asked during Question Time since 1998.¹⁹ With no recent practice to refer to, and only limited guidance from the Agreement and the standing orders, there was some initial confusion regarding implementation. In response to this, the Speaker stated:

I want to take this opportunity to let the House know of my position on supplementary questions. I will apply the following criteria: they need not be asked by the member who has asked the original question and may be asked either by the Leader of the Opposition or a member who appears to have been delegated by the Leader of the Opposition to ask the question, and I note that a supplementary question may be asked by a member other than the member who has asked the original question in a number of other

14 HR Deb, 22 February 2011, 913.

15 Hon C Pyne, *Submission no. 4*, p 3.

16 See table 4.1.

17 Hon C Pyne, *Submission no. 4*, p 4.

18 Standing order 101(b), 20 October 2010.

19 Chamber Research Office statistics.

jurisdictions; they should not contain any preamble; and they must arise out of, and refer to, the answer that has been given to the original question.²⁰

- 4.14 Subsequently the Speaker provided further clarification after an attempt by the Shadow Treasurer to ask the Treasurer a supplementary question to a question by a government Member. The Speaker advised that while other comparable jurisdictions have accommodated supplementary questions to questions asked by the other side of the House, he would not allow it at this stage. He added that the House may later consider the matter further. The Speaker also advised that another opportunity to ask a supplementary question would not be granted where an earlier attempt has been ruled out of order.²¹
- 4.15 The Agreement specifies that a 'proportionate share' of questions be allocated to non-aligned Members. This reflects a commitment to ensure these Members are given an equitable share of opportunities. In line with the long-standing practice that the allocation of the call during Question Time is an informal matter, standing orders were not amended to incorporate this.
- 4.16 For most of the 42nd Parliament, there were three non-aligned Members, making up 2% of all Members.²² Data show that the non-aligned Members asked 2% of questions without notice, a figure proportionate to their number.²³ In the 43rd Parliament, the number of Members considered non-aligned increased to six, making up 4% of all Members.²⁴ In the first session of the 43rd Parliament they asked 5.1% of all questions.²⁵
- 4.17 The Agreement also provides that the order in which non-aligned Members are given the call during Question Time should be taken into account. The Leader of the House advised that an agreement had been made between the Government and the Australian Greens Party, to provide a 'fixed and fair' allocation of questions to non-aligned Members:

During each question time, after five questions have been asked and answered, the call would ordinarily be given to a government member to ask the sixth question. In order to ensure that the

20 HR Deb, 20 October 2010, 859.

21 HR Deb, 20 October 2010, 940.

22 This figure includes Mr Oakeshott, an Independent Member, who was elected at a by-election and sworn in on 17 September 2008, but does not include Mr Johnson, a former Liberal Member, who was an Independent Member from 20 May 2010.

23 See Table 4.1.

24 Four Independent Members, one Greens Member and one WA Nationals Member.

25 See Table 4.1.

commitment in the agreement is implemented in full, if at that point, that is, after the fifth question, a non-aligned Member rises to seek the call, the Chief Government Whip has asked that no government member seek the call.²⁶

- 4.18 This allows for a non-aligned Member to ask a question when a government Member would normally be given the call. Previously, a non-aligned Member typically asked a question in place of an opposition Member.
- 4.19 Another element of the Agreement (implemented informally) related to the preference for Members not to use notes during questions and answers. This is intended to limit prepared statements being read during Question Time, while recognising that at times, notes may be needed to provide the House with the best possible information. The intention of the reform is to bring greater spontaneity to Question Time, and result in answers being related more directly to questions. The extent to which this arrangement has been implemented is difficult to measure. While acknowledging that some time may be needed, the Speaker indicated to the House his intention to address this issue.²⁷

Committee comment

- 4.20 The Committee concludes that Question Time appeared more efficient in the initial five weeks. Compared to the 42nd Parliament, the average length of Question Time decreased, while the average number of questions increased from 18.6 to 19.6 including supplementary questions which were allowed in 17 of the 18 Question Times. The number of points of order was lower compared to the last parliament. Answers were shorter and the historical discrepancy between length of answers to government and opposition questions was reduced. Independent and minor party Members had the opportunity to ask a greater proportion of questions.
- 4.21 The Committee notes that these measures are not an indication of the effectiveness of Question Time, but are still an important indicator of efficiency. The Committee will monitor them and may seek evidence on the potential for further efficiencies.
- 4.22 The Committee agrees that for the reforms to be effective in reducing the combative nature of Question Time, a cultural change will need to take place within the House. The Speaker emphasised this:

26 HR Deb, 18 November 2010, 3027.

27 See HR Deb, 29 September 2010, 175.

...it will not only take a change of standing orders but a change of culture in the whole House to bring about the type of question time and proceedings in this place that many outside would like to see.²⁸

- 4.23 Since the opening of the 43rd Parliament, a number of Members have supported this view, acknowledging the importance of cultural change to the successful reform of parliament, including Question Time.²⁹ On the basis of early indications, the Committee is cautiously optimistic that the reforms can bring some change that will limit scope for argument and better promote questions and answers that are concise and to the point.
- 4.24 The Speaker has given some indications of his intentions within the standing orders – in particular to limit the debate and argument in questions – and his clear guidance that where a question does contain debate and argument, it opens the door for a wide ranging answer. The Committee notes the Speaker's preference to amend standing orders to apply the same rules to questions and answers.
- 4.25 The Committee will monitor Question Time to see how the implementation of the new standing orders plays out in coming sitting weeks before considering the matter again in its next report on the implementation of the procedural reforms.

Changes to the system of House committees

- 4.26 An important feature of House committee work has been the generally non-partisan approach of Members, working cooperatively to achieve consensus. However, while the valuable work of committees is appreciated by the Members who serve on them, it seems to go largely unrecognised by the wider community and this has unfortunate implications for the status of the House (and parliament) as one of the principal institutions of the Australian democratic system.
- 4.27 The committee system is sometimes subject to criticism, including occasional perceptions of lack of independence and slow responses by government to committee reports.

28 HR Deb, 28 October 2010, 2062.

29 See for example: HR Deb, 28 September 2010, 9; HR Deb, 18 October 2010, 423; HR Deb, 28 October 2010, 2062.

- 4.28 Proposals in the Agreement to strengthen and improve the House committee system include:
- rationalising the number of committees and reducing their membership;
 - increasing opportunities for the participation of supplementary members;
 - altering chairing arrangements for the Joint Committee of Public Accounts and Audit;
 - referring bills requiring additional scrutiny (as determined by the Selection Committee);
 - enabling committee chairs and deputy chairs to make statements in the House about committee inquiries; and
 - encouraging timely government responses to committee reports.³⁰
- 4.29 Implementation of these proposals has seen the number of general purpose standing committees reduced from 12 in the previous parliament to nine.³¹ Membership of each committee is still structured to reflect the party membership of the House. The number of positions per committee has also been reduced from 10 permanent members (six government and four non-government members) in the 42nd Parliament to seven permanent members (four government and three non-government members) in the 43rd Parliament.³² The principal purpose of reducing the number and size of committees is to allow Members to dedicate more time to the committee or committees on which they serve.
- 4.30 In the 42nd Parliament there were 256 positions³³ on House and joint committees to be filled by 115 eligible Members.³⁴ Most eligible Members were therefore required to serve on two or three committees, with some serving on as many as four. Following the reforms there are 230 positions³⁵ on House and joint committees and 119 eligible Members.³⁶ A comparison

30 *Agreement for a Better Parliament: Parliamentary Reform*, Clause 10.

31 Standing order 215(a), 20 October 2010.

32 Standing order 215(d), 20 October 2010. Note: where a non-aligned Member is appointed to a general purpose standing committee standing order 215(d) provides that committee membership consist of eight members – four government members, three non-government members and one non-aligned member.

33 Excludes *ex officio* positions filled by the Speaker and Deputy Speaker.

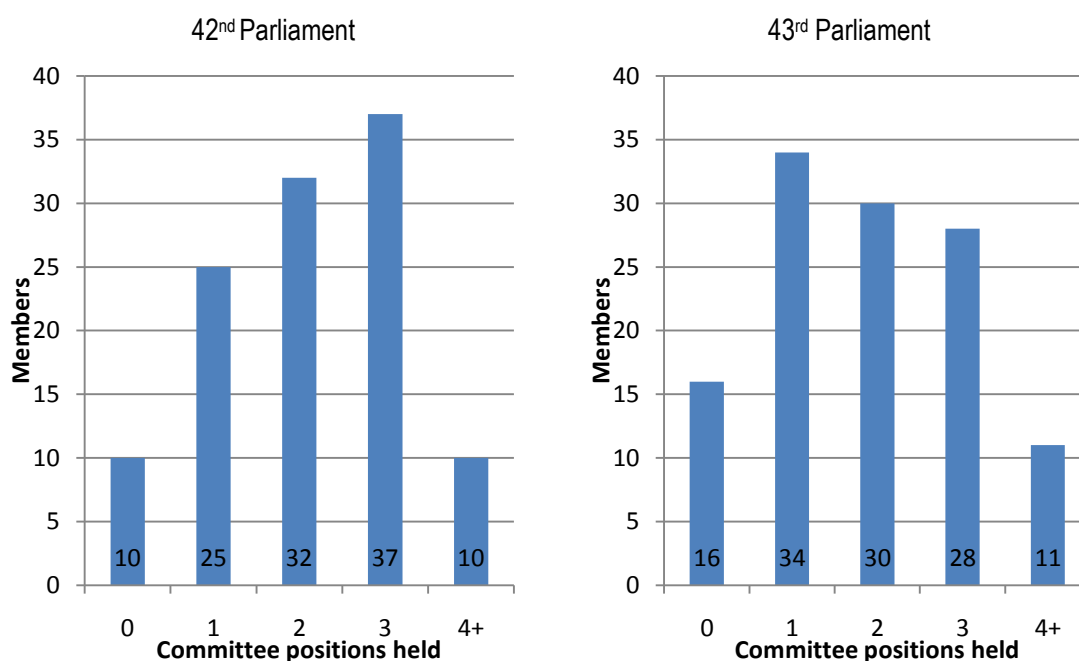
34 Excludes Ministers, Parliamentary Secretaries and Leader of the Opposition.

35 Excludes *ex officio* positions filled by the Speaker and provisions supplementary Members.

36 Excludes Ministers, Parliamentary Secretaries and Leader of the Opposition.

of the distribution of Committee positions among Members for the 42nd and 43rd parliaments is shown in Figure 4.1.

Figure 4.1 Distribution of committee positions among Members in the 42nd and 43rd Parliaments



Source: Chamber Research Office statistics, February 2011.

4.31 Although the number of permanent positions on general purpose standing committees has been reduced in the 43rd Parliament, standing orders now allow for up to four supplementary members (two government and two non-government or non-aligned members) per inquiry.³⁷ This facilitates participation by Members in inquiries of particular interest to them, without the need to seek permanent appointment. In contrast to earlier parliaments,³⁸ even at an early stage of the 43rd Parliament, supplementary members have been appointed for four inquiries.³⁹

37 Standing order 215(d), 20 October 2010, reflecting Clause 10.2 of the Agreement. Note: previously a maximum of two supplementary Members (one government and one non-government) could be appointed per inquiry for general purpose standing committees.

38 In the 42nd Parliament, supplementary members were appointed for two committee inquiries, and in the 41st Parliament, supplementary members were appointed for one inquiry.

39 Standing Committee for Climate Change, Environment and the Arts – one supplementary member for the inquiry into the National Radioactive Waste Management Bill 2010; Standing Committee for Economics – one supplementary member for the inquiry into the Competition and Consumer (Price Signalling) Amendment Bill 2010; Standing Committee for Regional Australia – four supplementary members for the inquiry into the socio-economic impact of the proposed Murray-Darling Basin plan; Standing Committee on Education and Employment – one supplementary member for the inquiry into the Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011. As at 24 March 2011.

- 4.32 Previously, standing orders provided for committee chairs to be drawn from government committee members and, although not specified, the position of deputy chair has been filled by a non-government member by convention.⁴⁰ However, the Agreement provides specifically for the Joint Committee of Public Accounts and Audit to be chaired by a non-government Member. In addition, the amended standing orders allow for the Standing Committee on Regional Australia to be chaired by a non-government Member.⁴¹ Both committees have appointed non-aligned Members as chair.
- 4.33 The Agreement proposes that the Selection Committee refer bills it considers to be controversial or needing additional debate to the relevant standing or joint committee for inquiry prior to debate in the House. Historically under standing order 215, House standing committees and joint committees have been able to inquire into and report on bills and pre-legislative proposals, if referred to them by the House or relevant Minister. But this has not been a significant aspect of House committee work.⁴² In the 42nd Parliament only six legislative inquiries were undertaken by House and joint committees. Of these, four were by joint committees and two by House committees. As at 4 March 2011, the Selection Committee has referred seven bills, comprising five government bills and two private Members' bills, to House committees for inquiry.⁴³ It is difficult to predict the frequency with which the Selection Committee will refer bills to House and joint committees, but early indications are that referrals will increase, particularly as only one member of the Committee is needed to effect this.⁴⁴
- 4.34 Traditionally committees have reported in the House only at the conclusion of an inquiry, when the report is presented. To raise the profile of committee work, and to promote interest in new inquiries, the Agreement proposed that committee chairs and deputy chairs be able to make statements informing the House about inquiry matters during private Members' business time.⁴⁵ This opportunity was used for the first

40 Standing order 232, 20 October 2010.

41 Standing order 215(e), 20 October 2010.

42 The majority of inquiries conducted by House standing committees and by joint committee have either been policy focussed or relate to government scrutiny.

43 As at 4 March 2011, the Selection Committee has referred four bills to the Standing Committee on Economics, one bill to the Standing Committee on Climate Change, Environment and the Arts; one bill to the Standing Committee on Education and Employment; and one bill to the Standing Committee on Health and Ageing.

44 Standing order 222(a)(iii), 20 October 2010.

45 Standing order 39(a), 20 October 2010.

time on 22 November 2010 by the Chair and Deputy Chair of the Standing Committee on Regional Australia, in relation to the inquiry into the socio-economic impact of the proposed Murray-Darling basin plan. As at 4 March 2011, 13 statements have been made, relating to eight inquiries.

- 4.35 Although not bound under standing orders, since 1983 successive governments have undertaken to respond to committee reports within a three month period. Historically, government responses have rarely been received within this timeframe, and in some cases reports have not been responded to at all.⁴⁶ To encourage more timely government responses, early in the 43rd Parliament the House passed a resolution requiring Ministerial explanations if government responses are not received in a six month timeframe.⁴⁷ With the first committee reports of the 43rd Parliament presented in late November 2010, government responses will be due by late May 2011. The effectiveness of the resolution will be established as the parliament progresses.

Committee comment

- 4.36 Many of the proposals for reform to the House committee system have been informed by recommendations made by the Committee.⁴⁸ The main aims of these reforms are to strengthen the House committee system by making it more workable for Members, increase committee independence and government responsiveness, and to make committees more responsive to community expectations. Initial observations suggest a measure of success but the Committee is yet to receive detailed feedback on these reforms and so its comments are tentative and will be expanded upon in its next report.
- 4.37 Since the commencement of the modern committee system in 1987, there have been slight variations in subject coverage. These have often reflected changing government priorities and have mirrored government portfolio restructures and associated departmental changes. As a result of the current reforms, the House standing committees now have a stronger focus on regional issues, presumably an outcome of negotiations with Independent Members. Nevertheless, when considered in combination with the existing joint committees, the House committee system still provides sufficient subject area coverage to support inquiries into all domains of government policy and administration. Whether this current

46 See report register for data on timeliness of responses. Available online at: http://www.aph.gov.au/house/committee/report_register/parlist.htm.

47 Resolution adopted 29 September 2010.

48 Standing Committee on Procedure, *Building a modern committee system*, June 2010.

structure is fully optimised, or whether it would benefit from further refinements, is a matter of conjecture. The Committee looks forward to receiving specific feedback on this issue.

- 4.38 The effects of having fewer and smaller House standing committees and changes to chairing arrangements on their workability also remain to be determined.
- 4.39 Although the work of House committees has generally been characterised by a cooperative non-partisan approach, changes to the composition of committees and to chairing arrangements for some committees clearly have implications for decision making. Notably, when a non-aligned Member is appointed to a general purpose standing committee, the membership increases from seven to eight members; that is four government members, three non-government members and one non-aligned member.⁴⁹ The balance of power favours the non-aligned member. Where a committee is chaired by a non-aligned member, in circumstances of an even division in the committee, the chair will have the casting vote. Although optimistic that the culture of cooperation and non-partisanship will persist in the work of committees, the Committee will monitor this.
- 4.40 The Committee has observed an encouraging response from Members to increased opportunities for the appointment of supplementary members for specific inquiries. As noted, already in the 43rd Parliament seven Members have taken advantage of the opportunities to participate in four inquiries as supplementary members.
- 4.41 The role of the Selection Committee in referring bills to committees for inquiry, and the resulting increase in activity in this area, is encouraging. The Committee recognises the potential for committee consideration to enhance the legislative process by recommending amendments to improve bills before consideration by the House. The Committee has not received specific feedback about this aspect of the role of the Selection Committee and will continue to monitor the mechanism for referral and the time taken to complete bills inquiries.
- 4.42 The new opportunity for chairs and deputy chairs to make statements to the House on committee activities has already been referred to.⁵⁰ Raising awareness of committee activities and improving the parliament's relationship with the public by enhancing dialogue between committees and the wider community are both addressed in the Agreement. Mechanisms to enhance relationships with the public by improving

49 Standing order 215(d), 20 October 2010.

50 See para 4.33.

dialogue have highlighted the potential for committees to make more use of new technologies so they become more accessible, interactive and responsive. There are an increasing number of examples of committees using new technologies to gather evidence and to engage with the public.⁵¹ To support the committees in this evolving technological environment, the Agreement proposes that the Leader of the House and the Speaker investigate the adequacy of teleconferencing and videoconferencing with a view to considering any necessary upgrades or additional facilities to meet current and projected needs.⁵² A review of the powers of committees has also been referred to the Liaison Committee of Chairs and Deputy Chairs. The Committee looks forward to receiving information on the outcomes.

51 This includes the use of online surveys, collecting information via online forums and advertising committee inquiries through social networking websites.

52 See *Agreement for a Better Parliament: Parliamentary Reform*, Clause 16.4.