House of Lords Liaison Committee review of investigative and scrutiny committees

Thank you for the opportunity to share information about New Zealand select committee practice to inform the Liaison Committee’s review. It is my pleasure to provide an overview of our committee system and discussion of some particular features and recent developments, which are hopefully relevant to the committee’s work.

Subject select committees

Twelve subject select committees are established at the beginning of a Parliament for the duration of the Parliament (i.e. a three-year term). Subject select committees have multiple functions and exercise general oversight of policy, legislative, and administrative matters within their subject areas. Subject select committees are likely to spend the majority of their time considering business referred by the House, in particular scrutiny of bills and financial scrutiny. Committees also consider petitions, international treaties, and reports of Officers of Parliaments. Subject select committees also have the authority to initiate their own business which take the form of briefings or inquiries that fit within their subject areas.

Periodically, there are calls for extra, specialised committees to be established, such as a Petitions Committee or a Human Rights Committee. As well as posing practical difficulties of finding members to sit on these committees (the New Zealand Parliament is only 120 members, including Cabinet Ministers who do not sit on subject select committees), this approach is not favoured because the preferred view is that all committees should consider issues like human rights as part of their core business.

Each committee’s subject area is specified in the Standing Orders as follows (SO 188):

**Economic Development, Science and Innovation Committee:** business development, tourism, Crown minerals, commerce, consumer protection and trading standards, research, science, innovation, intellectual property, broadcasting, communications, information technology

**Education and Workforce Committee:** education, training, employment, immigration, industrial relations, health and safety,
accident compensation

**Environment Committee**: conservation, environment, climate change

**Finance and Expenditure Committee**: economic and fiscal policy, taxation, revenue, banking and finance, superannuation, insurance, Government expenditure and financial performance, public audit

**Foreign Affairs, Defence and Trade Committee**: customs, defence, disarmament and arms control, foreign affairs, trade, veterans’ affairs

**Governance and Administration Committee**: parliamentary and legislative services, Prime Minister and Cabinet, State services, statistics, internal affairs, civil defence and emergency management, local government

**Health Committee**: health

**Justice Committee**: constitutional and electoral matters, human rights, justice, courts, crime and criminal law, police, corrections, Crown legal services

**Māori Affairs Committee**: Māori affairs, Treaty of Waitangi negotiations

**Primary Production Committee**: agriculture, biosecurity, racing, fisheries, productive forestry, lands, and land information

**Social Services and Community Committee**: social development, social housing, income support, women, children, young people, seniors, Pacific peoples, ethnic communities, arts, culture and heritage, sport and recreation, voluntary sector

**Transport and Infrastructure Committee**: transport, transport safety, infrastructure, energy, building and construction.

Four other select committees are established at the beginning of each Parliament (Officers of Parliament Committee, Regulations Review Committee, Privileges Committee, and Standing Orders Committee). A Business Committee, responsible for the organisation of House business and other matters relating to proceedings, is also established but operates in a less formal way than other select committees. This committee’s decisions must be on the basis of near-unanimity, with the Speaker as chairperson, ruling on whether this threshold has been reached and ensuring that decisions are not oppressive of minor parties.

Ad hoc committees can be established but this happens relatively infrequently. In recent Parliaments, ad hoc committees have been established to consider electoral legislation, governance arrangements
for Auckland city, and the emissions trading scheme.

In 2017 the Standing Orders Committee recommended a reduction in the number of subject select committees from 13 to 12 and a reorganisation of subject areas. This recommendation was made as part of the committee’s regular review of Standing Orders, which takes place once a term. A key factor in the reorganisation was to better align the subject areas with the current organisation of the public service and appropriations, and the Government’s sector approach to defining objectives and measuring achievements. How the House now conducts financial debates also reflects the sectoral approach.

**How committees operate**

The overall number of seats across committees is not specified in the Standing Orders but there is a well-established practice that there tends to be approximately as many committee seats as members in the House. Overall membership of committees is required to be proportional, so far as practicable, to membership of the House. The largest Opposition party in this current Parliament actually won more seats than any other party (56 out of 120 seats) but was not able to form a coalition to govern. Therefore this party has a very strong presence on committees. In the current Parliament, 6 out of 12 committees are evenly split between Opposition and Government members and 5 out of 12 are chaired by Opposition members.

Committees have open and closed sessions. In open sessions, they hear evidence from the public and others. Members of the public and affected stakeholders regularly appear before the committees on bills, petitions, and inquiries. Ministers and senior Government officials most commonly give evidence to committees as part of their financial scrutiny work. In closed sessions, committees will receive advice from officials, consider draft reports, discuss matters among themselves, and finally deliberate. While committees will often come to a consensus on matters, there are time when they will not be able to agree (especially where the committee has an equal number of Government and Opposition members) and this will be reflected in the committee’s reporting to the House.

Committees tend to have a regular meeting time in House sitting weeks (usually a Wednesday or Thursday morning) and may meet at other times or in non-sitting weeks. Committees will often be considering multiple items of business at the same meeting.

**Committee effectiveness**

We have been working on a number of areas in the last few years to
Composition of committees and role of members

During the last review of Standing Orders, the Standing Orders Committee advocated for a reduction in seats across committees, to be allocated proportionally. The committee recognised that smaller committees could be more effective in the New Zealand context. It said that, “A decrease in committee seats would provide more flexibility for parties to manage committee attendance and absences. This flexibility would also allow members to attend committee meetings according to their interests, expertise and availability. Government backbench members would not be expected to be on more than two committees each, allowing them to be more focused in their committee work.”¹ While the reduction in seats did not finally eventuate in the current Parliament, the proposal will hopefully be revisited in the future.

To facilitate flexibility and their engagement in the work of committees, members and their staff have in recent years had access to the papers of all committees (not just the ones they are permanent members of) via the eCommittee system.

Role of chairperson

The 2017 review of Standing Orders also recognised that committee effectiveness relies heavily on the proper exercise of the role of chairperson. Although the committee did not want to codify the role in Standing Orders, it did set out clear expectations for chairpersons in its report, which have subsequently become a Speakers’ ruling. The committee stated that, “The overarching principle is that select committee chairpersons, when exercising functions and authority as presiding officers, must regard the interests of the House as paramount.” It noted that these interests are served when:

- the rules and practices of the House are impartially and consistently interpreted, constructively applied, and always complied with
- members are able to make informed decisions about the business before them

• meetings are facilitated so that time is used effectively and collaborative decision-making can occur where possible
• participants in parliamentary processes are treated fairly and respectfully
• Parliament engages well with the public and democratic participation is encouraged
• bills and other instruments are scrutinised properly and improved so that New Zealand is regulated by good-quality legislation
• the Government is held to account for its policies, strategies, administrative actions, and financial performance
• legitimate expectations of Government and non-Government members are accommodated
• reports properly crystallise the outcomes of committee consideration and allow the expression of differing views
• business and arrangements for meetings are signalled in advance, and good warning is given of meetings outside Wellington
• business is considered in a timely way and reporting deadlines are met.  

These expectations have provided useful guidance for chairpersons to understand the broad responsibilities of their roles. They also inform discussions between committee staff and the chairperson and provide helpful direction for the chairperson when trying to navigate difficult situations.

Advice to committees

Departmental officials and legislative drafters are generally available to committees scrutinising bills. Committees may also engage specialist advisors (e.g. academics, lawyers, practitioners) if they choose. For example, the Finance and Expenditure Committee often receives independent specialist advice on tax bills.

Committee staff also play a role in advising committees beyond providing procedural advice. For example, committee clerks are expected to read all bills before a committee and bring to the committee’s attention any issues of legislative quality the committee is not aware of. Clerks are supported in this work by the Office of the Clerk’s Legislative Counsel (a small team of lawyers who provide legal advice to the Office and Parliamentary Service and draft members’ bills) and Policy staff.

Committees may also receive advice or invite evidence from relevant Officers of Parliament. New Zealand has three Officers: the Controller and Auditor-General; the Ombudsmen; and the Parliamentary Commissioner for the Environment. Staff of the Office of the Auditor-General appear most frequently before committees and their advice is

2 Ibid. p.20.
vital to committees’ financial scrutiny of Government spending.

Committee findings and recommendations

Committee reports to the House are the mechanism by which committees communicate their findings. When reporting on briefings, inquiries, petitions and international treaties, committees may make recommendations to the Government. The Standing Orders require the Government, not later than 60 days after the presentation of the report, to present a paper to the House responding to the recommendations.

While committee reports on bills are always debated in the House and committee financial scrutiny reports inform the House debates on the Estimates and Annual Reviews, there is often limited House time to debate other committee reports. However, committees can advocate for House debates on their reports (e.g. an inquiry report) by writing to the Business Committee, which facilitates the management of House business. For a committee report to be set down for debate, broad agreement is required across the House as decision-making at the Business Committee operates on a principle of near-unanimity.

Public engagement

Providing increased and more accessible ways for the public to engage with Parliament, including the work of select committees, is a strategic goal for the Office of the Clerk. The House’s business is increasingly being communicated through the Parliament website and social media. The Parliament has its own Twitter, LinkedIn, and Facebook accounts. In addition, each subject select committee has its own Facebook page to advertise for submissions, advise when reports have been presented, and generally keep the public up to date on the committee’s activities. In recent months, hearings of evidence for some committees have been live-streamed via the relevant committee’s Facebook page. It has been pleasing to see the real-time and subsequent engagement occurring in response to the livestreaming.

Committee staff are responsible for moderating the online discussions.

Engaging the public in the committee’s work is increasingly seen as part of the chairperson’s role. For example, most committee chairpersons have recorded video introductions to their committees for the website and other media channels.

I trust that the information provided here is helpful. Please contact me if you require further information. I wish the committee well with its
consideration of this matter and look forward to reading the committee’s findings.

Yours sincerely

David Wilson

Clerk of the House of Representatives

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