

# Regulatory Impact Statement 4: Parliament Bill – Funding Arrangements for Parliament

## Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing final Cabinet decisions
Advising agencies:	Office of the Clerk Parliamentary Service
Proposing Ministers:	Leader of the House
Date finalised:	6 September 2021

Problem Definition	
<p>We consider two policy areas related to the funding of Parliament in this Regulatory Impact Statement. The discrete policy problem in each area is below.</p> <p><b>Funding arrangements for the Parliamentary Service and the Office of the Clerk</b></p> <p>The Parliamentary Service and the Office of the Clerk are not part of executive Government but are the parliamentary agencies that directly support the function of Parliament. They are defined as departments for the purposes of the Public Finance Act 1989 and administer Votes containing appropriations for outputs as if they were Government departments. Funding for the two agencies is determined using the same contestable process applied to all public sector agencies. The agencies submit Budget bids the same way as Government departments, for Treasury to consider. The Government considers whether the bids align with its priorities.</p> <p>This means Parliament is financially dependent on the Government. From a constitutional perspective, this arguably weakens the separation of powers<sup>1</sup> between the legislature and the executive.</p> <p><b>Role of the Appropriations Review Committee</b></p> <p>Every three years, an Appropriations Review Committee (ARC) is established to review the annual appropriations that fund members of Parliament, parties, and qualifying electoral candidates to effectively perform their roles. The ARC only reviews appropriations that relate to the Parliamentary Service.</p>	

---

<sup>1</sup> The separation of powers ensures that no single arm of government can exercise undue power in relation to the others.

We have identified some specific issues about the operation of the ARC, including:

- the timing of the ARC's recommendations
- the lack of a link between the ARC's recommendations and the official appropriations process, and
- the prescriptive nature and the cost of forming an ARC and producing its report.

We think that the process of reviewing the annual appropriations for the funding of Parliament could be improved.

## Executive Summary

### Funding arrangements for the Parliamentary Service and the Office of the Clerk

The objectives behind this policy are to have parliamentary funding that:

- is adequate, appropriate, effective, and efficient to support a healthy democracy;
- is determined in a way that preserves Parliament's right to control its own affairs;
- allows for input from members, the Treasury, and independent advisers; and
- is transparent about how it is determined.

We considered four options:

- (1) maintaining the status quo;
- (2A) Select Committee model (recommendations to the House);
- (2B) Select Committee process (recommendations and Budget bid process); and
- (3) funding recommended by an independent body with permanent legislative authority for the appropriation if recommendation approved by resolution of the House.

Our preferred option is Option (2A) Select Committee model (recommendations to the House), which is based on a recommendation made by the sixth Appropriations Review Committee in 2015. This option would ensure constitutional propriety by providing the greatest independence of Parliament from Government. It could be easily implemented, and it would provide value for money. The option's potential weaknesses can be mitigated by the further transparency and accountability measures noted in this paper.

We expect any additional costs to be negligible as the new arrangements would take advantage of support services already provided by the Office of the Clerk.

### Role of the Appropriations Review Committee

The main principles behind this policy are the same as for Part 1 – Funding arrangements for the Parliamentary Service and the Office of the Clerk.

We considered two main options: (1) maintaining the status quo; (2) replacing the role of the ARC with independent advisers (appointed by the House on a part-time ongoing basis).

Our preferred option is Option (2). It would provide greater flexibility and address matters relating to funding in a timelier manner (rather than on the currently 3-year ARC cycle). This option allows the Speaker to seek independent advice on parliamentary funding as and when required. This advice would continue to only be sought in relation to services provided under *Vote: Parliamentary Service*. The advice could not be sought in relation to *Vote: Office of the Clerk*, as services under that Vote are not currently subject to the ARC

process because those services primarily support the House and committees, not members directly.

The cost of implementing this option would be offset by savings from disestablishing the ARC because we estimate that the costs of operating this option would halve over the three-year period following the change. This is based upon several assumptions on the operation of this option, including that during that period advisers would have been remunerated as set out in the *Fees Framework for members appointed to bodies in which the Crown has an interest*.

## General

We consulted with the following:

- Government agencies: the Office of the Auditor-General; the Public Service Commission; and the Treasury. The Treasury does not support the proposal regarding the funding arrangements. The Department of the Prime Minister and Cabinet and the Parliamentary Counsel Office were also informed.
- parties in Parliament: the ACT Party; the Green Party; the Labour Party; the National Party; and Te Paati Māori. The Green Party supports the proposal on the funding arrangements, and noted that the current Appropriations Review Committee (ARC) process favours the major parties. The ACT Party commented that the proposals seemed sensible. None of the other parties provided comments on the proposals in this Regulatory Impact Statement.

## Limitations and Constraints on Analysis

There were no policy limitations on the policy options considered under any of the options. There were time constraints over policy development because of the Speaker's preference that the Parliament Bill be introduced into the House in March 2022. This required policy decisions to be made by September 2021, which minimised the time available for policy analysis and did not allow us to consult the public. The public will be able to have their say on the Parliament Bill during its select committee stage.

## Responsible Manager(s) (completed by relevant manager)

David Wilson  
Clerk of the House



30 August 2021

Rafael Gonzalez-Montero  
Chief Executive  
Parliamentary Service



30 August 2021

## Quality Assurance (completed by QA panel)

Reviewing Agency:

A special quality assurance panel was convened to consider the Regulatory Impact Statements for the Parliament Bill. Its

	members are from the Ministry of Justice (Chair), the Department of Internal Affairs, and the Parliamentary Service.
Panel Assessment & Comment:	<p>Topic: Funding arrangements for Parliament</p> <p>Part 1 - Funding arrangements for the Parliamentary Service and the Office of the Clerk; and</p> <p>Part 2 - Role of the Appropriations Review Committee</p> <p>The information and analysis summarised in the Regulatory Impact Statement <b>does not meet</b> the Quality Assurance criteria.</p> <p>The panel suggests further consideration be given to fleshing out option 3 in part 1 to better understand what the costs of implementing this model would be. The analysis in part 1 seems to be underpinned by an implicit assumption that a legislature-led process will give parliamentary agencies the funding they think they need, which means that the estimate of costs in the impact analysis may not be accurate. The part of the Parliamentary Service vote that is for Party and Member support is included in this policy change yet is not analysed in any depth. The analysis in part 2 also lacks some depth, meaning there is not enough analysis preceding the table on pages 34-36 to know whether the ratings are accurate.</p> <p>Time constraints have precluded public consultation, and although consultation with parliamentary parties was undertaken there was little engagement. The RIS has not, therefore, had the benefit of wider viewpoints testing the options. We recommend consideration be given to opportunities for targeted consultation, such as an exposure draft bill.</p>

## Contents

Regulatory Impact Statement 4: Parliament Bill – Funding Arrangements for Parliament .....	1
Coversheet.....	1
PART 1 – FUNDING ARRANGEMENTS FOR THE PARLIAMENTARY SERVICE AND THE OFFICE OF THE CLERK .....	8
Section 1: Diagnosing the policy problem .....	8
What is the context of the policy problem and how is the status quo expected to develop?.....	8
What is the policy problem or opportunity? .....	11
What objectives are sought in relation to the policy problem? .....	13

Section 2: Deciding upon an option to address the policy problem .....	14
What criteria will be used to compare options to the status quo? .....	14
What scope will options be considered within? .....	14
Which options are being considered? .....	16
How do the options compare to the status quo/counterfactual? .....	23
What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits? .....	26
What are the marginal costs and benefits of the option? .....	26
Section 3: Delivering an option .....	28
How will the new arrangements be implemented? .....	28
How will the new arrangements be monitored, evaluated, and reviewed? .....	28
<b>PART 2 – ROLE OF THE APPROPRIATIONS REVIEW COMMITTEE ....</b>	<b>29</b>
Section 1: Diagnosing the policy problem .....	29
What is the context of the policy problem and how is the status quo expected to develop? .....	29
What is the policy problem or opportunity? .....	31
What objectives are sought in relation to the policy problem? .....	31
Section 2: Deciding on an option to address the policy problem .....	31
Which criteria will be used to compare options to the status quo? .....	31
What scope will options be considered within? .....	32
How do the options compare to the status quo/counterfactual? .....	35
Which option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits? .....	38
What are the marginal costs and benefits of the option? .....	38
Section 3: Delivering an option .....	40
How will the new arrangements be implemented? .....	40
How will the new arrangements be monitored, evaluated, and reviewed? .....	40
Appendix .....	41

How will the new arrangements be implemented? .....41

# PART 1 – FUNDING ARRANGEMENTS FOR THE PARLIAMENTARY SERVICE AND THE OFFICE OF THE CLERK

## Section 1: Diagnosing the policy problem

**What is the context of the policy problem and how is the status quo expected to develop?**

### Funding arrangements for the parliamentary agencies

1. The Parliamentary Service and the Office of the Clerk are not part of the executive Government. They are parliamentary agencies which support the legislature<sup>2</sup> and they administer Votes containing appropriations for outputs for that purpose. They are treated as Government departments for the purposes of the Public Finance Act 1989.
2. The two agencies administer the use of the Votes on behalf of, and by, Parliament and its members. The Votes' appropriations include funding for: all parliamentary parties and members, their communications and travel; independent advice and research to the House, its select committees, and its members; building parliamentary capacity; and undertaking parliamentary diplomacy.
3. Half of the funding in Vote Parliamentary Service (see Appendix) is for members to use for parliamentary purposes. This funding supports the legislature to undertake its core constitutional functions: legislating, appropriating, representing, and scrutinising the Government. Another portion of the funding in Vote Parliamentary Service is to maintain the parliamentary complex, which is a Crown asset.
4. Funding for the two parliamentary agencies is determined as part of the same contestable process applied to public sector agencies<sup>3</sup>. Funds are appropriated by an Act of Parliament. The Speaker is the responsible Minister for appropriations administered by the Office of the Clerk and the Parliamentary Service.<sup>4</sup> The Public Finance Act 1989 introduced these arrangements for the two parliamentary agencies.
5. The parliamentary agencies represent a small proportion of public funds managed by the Crown. Vote Parliamentary Service represents 0.13% and Vote Office of the Clerk represents 0.016% of the total appropriations.
6. The Parliamentary Service Commission is a body representing members<sup>5</sup> that is responsible for advising the Speaker as to what services are to be provided to the House

---

<sup>2</sup> One of the three branches of government, consisting of members of Parliament and the Governor-General.

<sup>3</sup> Agencies put Budget proposals to the Treasury, who advise executive Government on appropriate levels of funding across Government.

<sup>4</sup> Public Finance Act 1989, sections 2(1) and 7C(3).

<sup>5</sup> The commission has at least one member for each recognised party that is represented in the House of Representatives.



and its members. It has no formal role in the appropriations process. The commission instead advises the Speaker of members' views about the support services that funding appropriated for the use of members of Parliament is used for and how that funding is administered.

7. At least once during every term of Parliament, the Speaker must establish an Appropriations Review Committee (ARC). The ARC is an independent committee of up to three persons that reviews annual appropriations which provide for members of Parliament, parties, and qualifying electoral candidates to effectively perform their respective functions.<sup>6</sup> ARC membership is typically made up of an ex-official, and a former member from each of the two largest parties in Parliament. The Speaker must consult the Parliamentary Service Commission before appointing the members of the ARC. The ARC makes recommendations, and the Speaker seeks advice from the Parliamentary Service Commission on whether any or all of those recommendations should be adopted.
8. The sixth triennial ARC described its role in the following way:<sup>7</sup>

*The purpose of this review was to ensure an independent view of the funding appropriated for members and parties to ensure they were adequately funded. Part of the thinking behind this inclusion [of establishing the ARC process in the Parliamentary Service Act 2000] was that an independent review would also address concerns around the decreased independence of the new funding mechanism, given that the Public Finance Act transferred budgetary control to the Executive Government.*

### **Appropriations Review Committee Reports (2015 and 2018)**

9. The sixth and seventh ARCs advocated for the funding of Parliament to be more independent of executive Government.

### **Sixth triennial ARC (2015)**

10. The report of the 2015 ARC stated:

*The Inter-Parliamentary Union notes that the strength of the legislative branch of government (in the case of New Zealand, Parliament) has a significant impact on the quality of democracy. There are two powers that Parliament needs to be effective: capacity of rights and resources, and relational power. This means Parliament must be adequately resourced and also have power and independence relative to the Executive Government.*<sup>8</sup>

*When the Executive Government holds budgetary power or influence over Parliament, the separation of powers is diminished...The funding of Parliament*

---

<sup>6</sup> Parliamentary Service Act 2000, section 20(1): The role of the ARC is to review the amounts of money appropriated in Appropriation Acts for: administrative and support services provided to support the parliamentary operations of members of Parliament, parties, and qualifying electoral candidates; communications services provided to members of Parliament and qualifying electoral candidates; and party and member support funding.

<sup>7</sup> Report of the Sixth Triennial Appropriations Review Committee, 6 November 2015, page 87.

<sup>8</sup> *Ibid*, pages 87 and 88.

*should be separate to the fiscal policies of the Executive Government, otherwise the ability of Parliament to hold the Executive Government to account could be compromised either in perception or reality.*<sup>9</sup>

*In consultation with the Treasury, the Parliamentary Service Commission and Parliamentary Service, we believe the most appropriate option in New Zealand is to make Parliamentary funding independent via a change to legislation, using the same funding mechanism as the Officers of Parliament. In this way, the financial independence of Parliament would be protected by legislation. Using the Officers of Parliament funding mechanism would bypass the need for an entirely new funding mechanism... This method of funding is proven within New Zealand as providing independence as well as fiscal responsibility. Officers of Parliament do not necessarily receive all the funds they request. Additionally, funding in this way enables greater transparency around the money spent on governing the country. Finally, Vote: Parliamentary Service is a small budget in the scheme of the public funds managed by the Crown, and therefore, the financial risk associated with this change is small.*<sup>10</sup>

*The legislation should include an independent review similar to the current triennial review to ensure Parliamentary funding is adequate and effectively managed.*<sup>11</sup>

11. The Officers of Parliament are the Ombudsmen, the Auditor-General and the Parliamentary Commissioner for the Environment. The Officers of Parliament are parliamentary entities empowered by the legislature to assist Parliament. Funding for these entities is determined by the Officers of Parliament Committee, which is a select committee, requesting funding from the House.

### **Seventh triennial ARC (2018)**

12. The 2018 ARC presented a wide-ranging report focused on moving towards an “*MMP Plus approach which gives us the best democracy in the world.*” The ARC report contained a package of recommendations to address resourcing for the key parts of New Zealand’s democracy.
13. The ARC’s report recommended that the mechanism for setting the level of parliamentary appropriation should not be dependent on the agreement of the executive every term. It’s proposal to provide for this was moving to a formula-driven approach to setting and adjusting the monies appropriated to fund members and parties:

*The method of calculating increases to the annual and multi-year appropriations should be agreed and adjustments made automatically in each Budget. There needs to be enough flexibility within the appropriation to be able to respond proactively to emerging trends and changing needs. The role of an independent*

---

<sup>9</sup> Report of the Sixth Triennial Appropriations Review Committee, 6 November 2015, page 88.

<sup>10</sup> *Ibid*, page 88.

<sup>11</sup> *Ibid*, page 89.

*triennial review becomes to ensure the formulas remain fit-for-purpose. Periodically, a major review of the funding formulas would be required.<sup>12</sup>*

*Taking a term-by-term approach where reactive, retrospective adjustments to funding or services are recommended – and then accepted or rejected by the Executive – means that the real resourcing for our Parliament fluctuates from term to term. Twenty-one years after the introduction of MMP our resourcing has just kept pace with our growth, but it is not sufficient to address the challenges to effective representation and decreasing engagement among our population.<sup>13</sup>*

## What is the policy problem or opportunity?

14. One of the House's privileges is the right to control its own proceedings, free from outside interference. Under the current arrangements, Parliament must bid for its funding as Government departments and other entities do. Then the Cabinet determines the funding to be provided to each, which is formalised in an Appropriations Bill. The result is that the executive determines the broad nature and extent of services and support provided to the legislative branch.
15. The interests of the executive and Parliament will not always align. Governments prioritise bids that meet their own objectives, so funding for uniquely parliamentary purposes may be deprioritised. The principle of Parliament being independent of the executive is therefore compromised, which has constitutional implications, and in perception or reality, this weakens separation of powers.
16. The parliamentary agencies have for a number of years sought to improve public engagement with Parliament through both wider dissemination of its proceedings (principally by streaming select committee proceedings) and through educational outreach activities in schools and other community groups. Despite numerous attempts at obtaining funding to support these activities, it has not been granted.

### **Example 1 (2021/22) Estimates of Votes for the parliamentary agencies**

- Office of the Clerk bid for an additional \$1 million in the Budget. The funding was to meet salary pressures, support the new Petitions Committee, and contribute to more transparent parliamentary procedures.<sup>14</sup>
- Responding to COVID-19 meant that in this Budget, funding was limited in many areas. The bid was not supported by the Treasury and funding for it was not included in the Appropriations Bill.
- As a result of not acquiring the funding, the Office will have to make savings elsewhere, although it has already significantly cut costs. This is particularly difficult at a time when

---

<sup>12</sup> Report of the Seventh Triennial Appropriations Review Committee, 17 August 2018, page 18.

<sup>13</sup> *Ibid*, page 47.

<sup>14</sup> The proposals included broadcasting select committees on Parliament TV, and producing the fifth edition of "Parliamentary Practice in New Zealand" (PPNZ).

COVID-19 is requiring that the Office find new and innovative ways to conduct Parliamentary business remotely and make that business accessible to the widest possible audience. The only reason that it was possible to have an increase in broadcasting select committees during the 2020 August/September lockdown was because the Minister of Finance approved in principle for the Office to retain an underspend in 2019/20, and have it added to its secretariat appropriation for 2021/22.

#### **Example 2 (2019/20) Estimates for Vote Parliamentary Service**

- The Parliamentary Service and the Office of the Clerk bid for an additional \$3 million across 4 years. The funding was to implement the Parliamentary Engagement Strategy.
- The joint bid was not supported by Treasury and funding for it was not included in the Appropriations Bill because it did not align with the Government's priorities and did not meet the criteria for non-discretionary cost pressures.
- The agencies presented the same bid in 2020/21, and were again unsuccessful. The Office of the Clerk and Parliamentary Service continue with parliamentary engagement activities, but do not achieve the outcomes that they would expect had the bids been successful. The agencies continue to work to increase participation in the work of Parliament, ensure more New Zealanders have their say, improve access to information, resources, and representatives for all citizens and organisations and ensure that every school child has the opportunity to visit (either physically or virtually), learn about, value, and understand Parliament. Without the specified funding, it is difficult for the agencies to achieve the levels of engagement between Parliament and the public that the agencies know are possible.

#### **Example 3 (2016/17) Estimates for Vote Office of the Clerk**

- Office of the Clerk bid for an additional \$3 million in the Budget. The funding would have been for webcasting of select committee hearings (a joint initiative with the Parliamentary Service), and to implement Parliament's Inter-parliamentary Relations Strategy.<sup>15</sup>
- The Treasury did not support the bid and the increased funding was not in the Appropriations Bill.
- The lack of funding for these activities continues to limit the work that the agencies can do to make select committee proceedings available and ensure that the public have access to Parliament.

17. The Clerk and the Chief Executive expressed their views about how the agencies are funded to the Governance and Administration Committee on 14 April 2021<sup>16</sup>. They noted that a special arrangement exists to determine the funding for the Officers of Parliament

---

<sup>15</sup> [2016/17 Estimates for Vote Office of the Clerk - response to written questions](#)

<sup>16</sup> Briefing on the funding arrangements for the Office of the Clerk and the Parliamentary Service - Office of the Clerk and Parliamentary Service [https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/53SCGA\\_EVI\\_109431\\_GA797/office-of-the-clerk-and-parliamentary-service](https://www.parliament.nz/en/pb/sc/submissions-and-advice/document/53SCGA_EVI_109431_GA797/office-of-the-clerk-and-parliamentary-service)

that recognises their positions as offices of the legislature. The arrangement is established in Parliament's Standing Orders and recognised in legislation.

18. The special arrangement gives the Officers of Parliament Committee the responsibility of examining the budget proposals for each Officer of Parliament and reporting its resulting recommendations to the House. The committee receives advice from the Treasury about the budget proposals during its examination. The House then recommends to the Governor-General, by way of an address, the Estimates to be included in an Appropriation Bill, based on the recommendations in the committee's report. By convention, the House's recommendation is always adopted by the Government and the Estimates included in the Appropriation Bill.
19. This arrangement seems a logical fit for considering the Parliamentary Service's and the Office of the Clerk's funding. Like the Officers of Parliament, the agencies:
  - support Parliament to perform its functions
  - are responsible to the Speaker, on behalf of the House, for the management of their organisations
  - are headed by people holding warrants from the Governor-General.
20. The heads of the two agencies noted some of the differences:
  - the Clerk and Chief Executive are not Officers of Parliament. The Clerk is an officer of the House and the head of a department of the legislature while the Chief Executive is the head of a department of the legislature
  - the Service and Office do not, in themselves, provide a check on the use of power by the executive, as some Officers of Parliament do; they support members and the House to do so
  - the Service and Office provide closer day-to-day support for Parliament than the Officers of Parliament do.
21. The Clerk and the Chief Executive also noted that the unique process for setting budgets for Officers of Parliament is an acknowledgement that the budget for the Officers should not be set unilaterally by the body they help to scrutinise.

### **What objectives are sought in relation to the policy problem?**

22. The objectives of this policy are that:
  - a. Parliamentary funding should be adequate and appropriate, and the manner in which it is used and allocated should be effective and efficient, in order to promote a healthy and thriving democracy.
  - b. The House of Representatives should control its own affairs, while also being fiscally responsible, accountable for, and transparent in its use of public money.

# Section 2: Deciding upon an option to address the policy problem

## What criteria will be used to compare options to the status quo?

23. We used the following specific criteria to assess the options:

Criterion	What it means
Constitutional Propriety	<ul style="list-style-type: none"> <li>Upholds principle that Parliament controls its own affairs</li> <li>Provides appropriate separation for the legislature from the executive</li> </ul>
Adequacy	<ul style="list-style-type: none"> <li>Funding is adequate and appropriate to carry out the role</li> <li>Funding is efficiently and effectively provided</li> </ul>
Transparency and Accountability	<ul style="list-style-type: none"> <li>Participants in parliamentary duties are responsible for their actions</li> <li>The public has access to adequate information to hold participants in parliamentary duties to account</li> </ul>
Independence, Discretion and Neutrality	<ul style="list-style-type: none"> <li>Maintains public trust and confidence in Parliament's integrity</li> <li>Maintains the trust and confidence of the House.</li> </ul>

24. We also considered some generic criteria: difficulty of implementation and value for money.

## What scope will options be considered within?

25. There have been no limits on the scope of the options considered, but throughout our analysis we have considered how to avoid significant additional cost, because seeking very large amounts of additional public funding is not appropriate in the current economic climate.

26. We reviewed parliamentary funding arrangements in Australia, the United Kingdom, and Canada:

a. **Australia**

The appropriation bills are separate from those for funding the executive, but they are still under the control of the Government. Parliament and its departments cannot set their own budgets. Since 1982–83, funding for Parliament has been provided separately from funding for executive Government operations, through passing of annual Appropriation (Parliamentary Departments) Acts. From 2000–2001, budgets for the parliamentary departments have been prepared using an accrual basis. The Appropriation (Parliamentary Departments) Acts contain appropriations for each department, under the headings 'departmental outputs', and 'administered expenses'.

b. **United Kingdom**

The [House of Commons \(Administration\) Act 1978](#) establishes the House of Commons Commission and sets out its functions, which relate to the funding of the House Departments. The House of Commons Commission is a mixture of lay members and parliamentary members. One of the functions of the commission is to once a year present to the House for its approval the 'Estimate for House of Commons: Administration', which would cover funding for the administration of and services to the House for the financial year. The Estimate, which is customarily not debated, is approved by the House. It is then included in the Supply and Appropriation (Main Estimates) Bill.

c. **Canada**

The [Parliament of Canada Act](#) establishes the Board of Internal Economy of the House of Commons and sets out its functions. The board prepares estimates for the House of Commons, which include the costs of both members and the House Administration. The Board of Internal Economy is the governing body of the House of Commons. In this capacity, the Board makes decisions and provides direction on financial and administrative matters of the House of Commons, specifically concerning its premises, its services, its staff and members of the House of Commons. The Board is responsible for establishing by-laws, policies and guidelines relating to expenditures and resources provided to members in order to carry out their parliamentary functions. Decisions of the Board are made on a non-partisan basis. All recognised parties (i.e. those holding at least 12 seats in the House) are given representation on the Board.

27. A further option was given initial consideration but considered to be unviable. In 2018, the seventh ARC recommended that a formula-driven approach to setting and adjusting the monies appropriated to fund members and parties be developed. We considered whether this could enable adjustments to be made to the annual and multi-year appropriations automatically in each Budget.
28. We concluded that this would not be viable as it is inflexible. For example, if the formula were set out in legislation, it could become out of date relatively quickly and it would require statutory amendment to update it. This lack of flexibility would be particularly undesirable if the House chose to limit its own funding because of a wider economic situation. It would also limit the House of Representatives' ability to regulate its own affairs.

## Which options are being considered?

29. We considered the following options:

- Option 1 – Status quo
- Option 2A – Select Committee model (recommendations to the House)
- Option 2B – Select Committee process (recommendations and Budget bid process)
- Option 3 – Appropriations recommended to the House by independent or semi-independent body.

### Option 1 – Status quo

30. Under the status quo, decisions relating to funding of the parliamentary agencies remain with the executive, and the two organisations are subject to the same budget-setting process as Government agencies. For the purposes of funding and accounting for expenditure, the Speaker is the 'responsible Minister'. The Speaker submits bids for funding to the Cabinet on behalf of the Service and the Office each year. The executive determines the nature and extent of services and support provided to the legislature. The legislature authorises expenditure and scrutinises the use of public funds, but the executive actually determines how it will spend appropriations and answers for its use of them.

31. Under this model, parliamentary funding is determined based on Government priorities.

### Option 2A – Select Committee model (recommendations to the House)

32. Under this option, a parliamentary select committee would recommend appropriations for the Parliamentary Service and the Office of the Clerk to the House. This is in line with the existing arrangements for the funding of Officers of Parliament. In the pre-Budget phase:

1. The Office of the Clerk and the Parliamentary Service would provide their funding requests directly to the select committee (in consultation with the Speaker as responsible Minister)
2. The Treasury would advise the committee on the requested funding
3. The committee would consider the requests and advice prior to making its decision
4. The committee's decision on funding for the Office of the Clerk and the Parliamentary Service would be recommended to the Governor-General by the House and included in the Government's Budget.

33. This option does not treat the Office of the Clerk and the Parliamentary Service as Officers of Parliament; it proposes an arrangement in which the agencies' funding requests are considered in the same way as those of the Officers of Parliament. The process by which funding requested by the Officers of Parliament is examined and approved reflects the principle that it is inappropriate for the executive to determine the



funding for agencies whose primary role is to scrutinise it. Similarly, the parliamentary agencies enable the operation of the House that scrutinises and holds the executive to account.

34. While Treasury had indicated its support as part of the 2015 ARC review, it now does not support this model. Treasury's current view is that it would affect the Government's fiscal strategy and priorities. The Treasury noted that there may be a risk that, over time, the funding approved under this model could gradually increase, affecting on the overall appropriations to a greater extent, and that there would not be a mechanism to control that.
35. Parliamentary agencies' funding currently accounts for 0.16%<sup>17</sup> of all Government expenditure. There are a number of mechanisms that could be used to manage the risk that over time funding would gradually increase. For example, the committee could institute criteria for parliamentary funding. The criteria would function in a similar way as Government priorities, as a baseline to which requests for funding are assessed. Alternatively, the committee could adopt a formula-driven approach, such as was recommended by the seventh ARC,<sup>18</sup> to setting and adjusting the monies appropriated to fund members and parties.
36. In addition to the possible mechanisms that the committee could adopt to mitigate the risk identified by Treasury, members themselves are also acutely aware of the negative public perception of increasing funding for their own benefit. This is likely to balance the risk of substantial funding increases being recommended.
37. We do not propose specifying which select committee should undertake this function; this is a matter for the House to decide for itself. The function could be performed by the Officers of Parliament Committee or by an entirely new committee.<sup>19</sup> This would mean that the select committee responsible for the Parliament Bill would need to consult with the Standing Orders Committee on appropriate changes to the Standing Orders to facilitate the change. We have made the following assumptions for our analysis:
  - a. The existing administration infrastructure provided by the Office of the Clerk to support the Officers of Parliament Committee would be available to support the committee given the role.

---

<sup>17</sup> Source: The Treasury, Summary Tables for the Estimates of Appropriations 2021/22, Vote Office of the Clerk, Vote Parliamentary Service.

<sup>18</sup> The 7th ARC did not specify a formula but commented that "The method of calculating increases to the annual and multi-year appropriations should be agreed and adjustments made automatically in each Budget. There needs to be enough flexibility within the appropriation to be able to respond proactively to emerging trends and changing needs."

<sup>19</sup> The Governance and Administration Committee usually examines the Estimates of Appropriations for both the Parliamentary Service and the Office of the Clerk, although the Finance and Expenditure Committee determines which committee examines which estimates in any year. It would be appropriate to keep the funding recommendation role and the scrutiny of the Estimates separate.

- b. The committee would have membership from all the parties represented in Parliament, which is appropriate in making decisions about the level of support provided to Parliament and members by the parliamentary agencies.<sup>20</sup>
38. To mitigate any concern about whether members of Parliament should be making decisions about public funding that could benefit them directly, we also assume that an independent adviser would be appointed to advise the committee on funding provided under *Vote: Parliamentary Service*.<sup>21</sup> Any formal advice given to the committee could be made public for transparency. If the independent adviser recommended additional funding for the Parliamentary Service, this independent advice could help to balance the risk of political instincts causing committee members to reject recommendations about public funding that might be seen to benefit members. More detail on this is provided in Part 2 of this paper (**Role of the Appropriations Review Committee**). The arrangements for the committee's consideration of funding would likely be set out in Standing Orders to maximise transparency and accountability.
39. The Auditor-General would continue to have responsibility for auditing the parliamentary agencies because they are listed as 'public entities' in Schedule 2 of the Public Audit Act 2001.
40. Based on comment from the Treasury, the one exception to this model would be specific appropriations for the parliamentary complex's maintenance, depreciations, and capital expenditure, including the three new buildings proposed under the Future Accommodation Strategy, as the complex is a Crown asset. These specific appropriations would be treated under the status quo.

## Commentary

41. We consider that this option strengthens separation of powers, in particular preventing any limitation of the House's control over its operations through executive control of the funding available for the House to operate. It also provides a transparent, accountable, and participatory mechanism for funding the agencies that support the legislature. It does so in a way that provides the scope to exercise their constitutional and parliamentary functions while also maintaining fiscal responsibility for public funds.<sup>22</sup>
42. We propose that the decisions, advice, and reports of the relevant select committee be made public. This is in line with the current rules for committees. These transparency mechanisms contribute to accountability. If the committee were to unreasonably disregard advice from Treasury, for example, they could be held publicly accountable because the advice would be publicly available. Having greater transparency

---

<sup>20</sup> The Officers of Parliament Committee has membership from all the parties represented in Parliament.

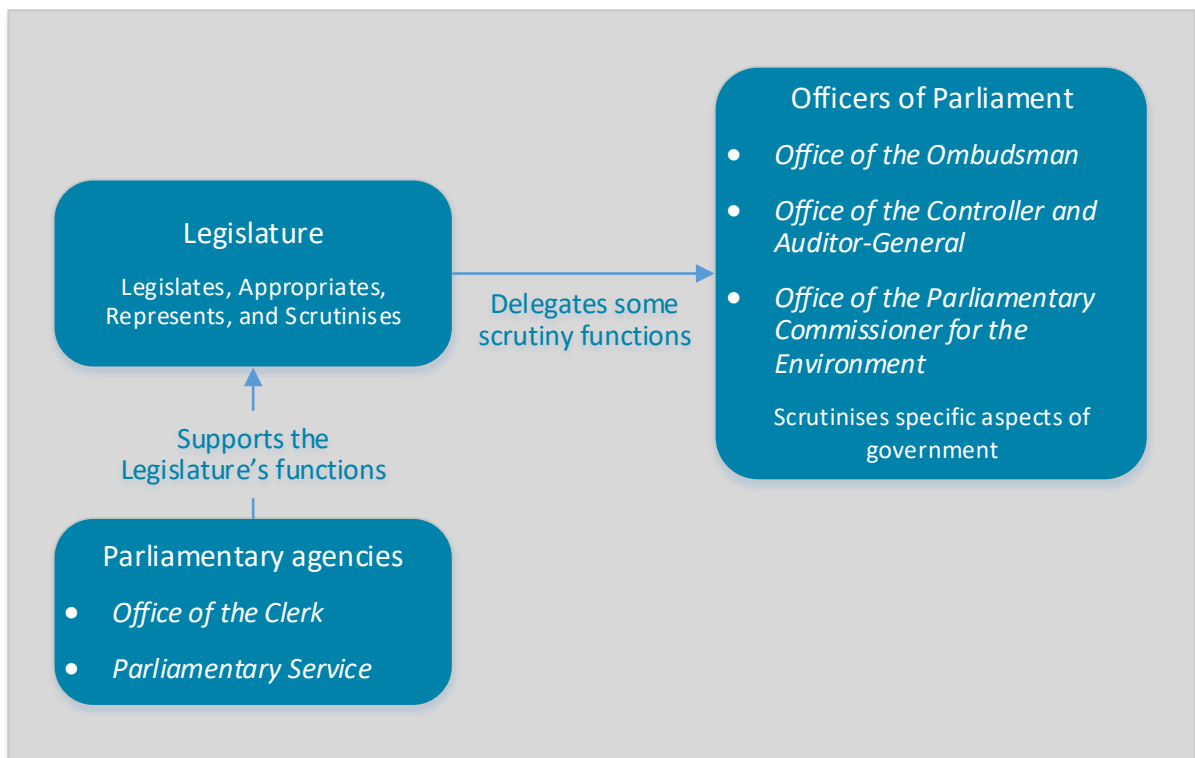
<sup>21</sup> This advice would not extend to the services provided under *Vote: Office of the Clerk*. The nature and quantity of those services are matters for the House rather than external review. Services funded under *Vote: Office of the Clerk* primarily support the House and committees, not members directly.

<sup>22</sup> New Zealand Journal of Public and International Law, vol 15 (2017), Designing for Legitimacy: A Systems Perspective, Kerkin, S.

encourages public participation and scrutiny, which supports holding decision-makers to account.

43. Under this option, the risk that funding for Parliament's operations could be refused for not aligning with executive priorities is avoided. Parliament could be funded as needed, to ensure it and all members and parties can function effectively.
44. Concerns that greater funding than is needed could be provided under this option is mitigated by the continued role of Treasury in providing advice to the committee. In addition, the representation of all parties in Parliament on the select committee will be an important factor in its decision-making, which will ensure that funding proposals reflect the needs of all parliamentary participants. Finally, public perception will continue to play a role in ensuring that funding proposals are reasonable and appropriate.
45. This option would establish a transparent process that allows for public engagement, thereby contributing to public trust and confidence in Parliament.
46. This model would create a further exception to the executive controlling decisions about which proposals for public expenditure are put before Parliament. It may also not conform to the Public Finance Act 1989's principles of responsible fiscal management. To some extent, the executive's interests would be represented at the responsible committee by advice from the Treasury. The Treasury advice would provide the committee with an assessment about the appropriateness of the proposed funding and the wider fiscal impact. The Officers of Parliament Committee's current practice to determine funding for the Officers of Parliament is to seek Treasury advice and consider it as part of its decision-making process. Treasury noted that funding (specific appropriations) to maintain the parliamentary complex should not be included in this model as this is a Crown asset, which we agree with.
47. We consider the Officers of Parliament model a good basis for a process to determine funding for the parliamentary agencies. The Officers of Parliament undertake functions for the benefit of the legislature, and the parliamentary agencies directly support the legislature to perform its role. The different relationships are described in **Diagram 1** below. The proposed model does not create a precedent that could apply to independent Crown entities that do not form part of the legislature, as this option reaffirms the separation of powers.

**Diagram 1: The Legislative Branch (current arrangements)**



48. The Green Party's view is that a select committee approach to scrutinising the proposed funding for the two parliamentary agencies may include a more representative cross-section of parties than an ARC (which typically has two former members from the Labour and National parties), be more transparent and accountable, and therefore lead to fairer outcomes for all parties. While the other parties represented in the current Parliament were consulted on this option, no specific comment was received from them on this option.

#### Option 2B –Select Committee Process (recommendations and Budget bid process)

49. Under this model, a parliamentary select committee would examine and recommend appropriations for the Parliamentary Service and the Office of the Clerk. The pre-Budget process would be similar to that used to consider proposed funding to be sought for the Officers of Parliament:
- a. The Office of the Clerk and the Parliamentary Service would provide their funding requests directly to the committee (in consultation with the Speaker as the responsible Minister)
  - b. The Treasury would provide separate advice to the committee about the requested funding
  - c. The committee would consider the requests and advice before making its final decisions
  - d. The committee's recommendations would form part of the parliamentary agencies' Budget bids, during the bidding process.

50. This option does not strengthen the separation of powers, and executive control of the funding available for the House to operate would remain. However, it is assumed that including an explicit recommendation from a committee representing all parties in Parliament would give greater weight to the parliamentary agencies' Budget bids to ensure that parliamentary priorities can be more actively balanced with Government priorities in the Budget process.
51. This option also provides a more transparent process for members' views on the adequacy of funding to be recorded, compared with the status quo. This is because of the standard select committee requirements to make evidence and advice available after reporting to the House.
52. The Treasury noted a limitation on timing with this option. The committee process, including advice from the Treasury, would occur before the Budget bid process. The select committee would need to conduct a hearing, make recommendations, and produce a report including its recommendations before the Government's Budget process was too advanced and draft Budget packages were being considered. This would be necessary to ensure that the Government's draft Budget package can accommodate the bids from the parliamentary agencies. The timing for the committee would vary each year, especially in election years.
53. The select committee would need to manage Budget-sensitive information appropriately. It would know details of Budget bids that are otherwise restricted to Government Ministers until Budget day. The committee may need to withhold their report until Budget day so that Budget-sensitive information is not released early. Timing requirements could be set out in the Standing Orders. Although the Treasury prefers the status quo, they prefer this option over the other options considered. This is because this option is consistent with the principle of having the final decision on budgets for the Office of the Clerk and the Parliamentary Service made by the executive.

### **Option 3 – Appropriations recommended to the House by an independent or semi-independent body**

Under this option, appropriations would be recommended to the House by a new independent body established for the purpose. The House would consider the body's recommendations and, by resolution, determine the funding to be provided. There would be a permanent legislative authority in the Bill to provide for funding in accordance with a resolution of the House. The body would therefore be advisory only, with final funding determinations sitting with the House itself.

54. Under this option, the membership of the body would be a mixture of independent experts and members of Parliament. This structure reflects that of the United Kingdom's House of Commons Committee.<sup>23</sup>
55. This option would require details about the body to be set out in the legislation:
- c. *Number of members:* Depending on the option chosen, this could comprise representatives of all parties represented in Parliament and/or three part-time members of the public.
  - d. *Appointment process and term.* Appointments could be made by the Speaker in consultation with the Parliamentary Service Commission. A term of up to three years, which could be renewed, in line with the parliamentary term, would be appropriate.
  - e. *Skills and experience of expert members:* This could include significant standing or substantial experience or knowledge in parliamentary matters, public administration, public finance, and/or corporate governance.
  - f. *Procedure:* The process to be followed by the body would need to be described in the Bill. It is expected that the body would need to receive and consider advice from the executive (through Treasury) given the effect of their recommendations on the overall budgetary process. The timing of the body's recommendations would also need to be provided for. The body's recommendations should be considered by the House prior to the Budget in case the House's determination had flow-on impacts to the Budget process. The body's procedure would also need to include provision for how its consideration could be made transparent and accountable.
56. While this option better supports the separation of powers by removing executive control of the funding available for the House, it does not wholly provide for the House to determine its own affairs in the way that option 2A does as the recommendations would still be made by an external body. This option is also likely to provide less transparency and accountability as an independent advisory body outside of the Parliamentary structure would not be subject to the usual public processes that a select committee would be.

---

<sup>23</sup> The House of Commons Committee's membership is a mix of lay members and parliamentary members. One of its functions is to, once a year, present to the House for its approval the 'Estimate for House of Commons: Administration', covering spending on the administration and services of the House for the financial year. The estimate, which is customarily not debated, is approved by the House along with other estimates. It is then included in the Supply and Appropriations (Main Estimates) Bill.

## How do the options compare to the status quo/counterfactual?

### Key for qualitative judgements:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

	Option 1 – Status Quo	Option 2A - Select Committee Process (recommendations to the House)	Option 2B - Select Committee Process (recommendations and Budget bid process)	Option 3 – Appropriations recommended to the House by independent or semi-independent body
Constitutional propriety	<p>0</p> <p>Provides limited control by Parliament over funding of the parliamentary agencies (passage of the appropriations legislation) and the services they provide to Parliament. In effect, the executive controls the level of funding for services to Parliament.</p>	<p>++</p> <p>Enhances separation of powers. The executive (Treasury) provides advice to the committee but otherwise has no influence over decisions.</p>	<p>0</p> <p>. Final budget determined by executive.</p>	<p>+</p> <p>Removes executive control of funding, but determination of parliamentary funding still contingent on external body</p>
Adequacy	<p>0</p> <p>Risk that funding may be inadequate for the parliamentary agencies to meet their own standards of administrative excellence. Can affect the quality of service provided to MPs.</p>	<p>++</p> <p>Based on the operation of the model for Officers of Parliament, as well as self-interest, it is likely that the select committee will provide funding it considers adequate and appropriate in a timely fashion.</p>	<p>0</p> <p>Based on the operation of the model for Officers of Parliament, as well as self-interest, it is likely that the select committee will recommend funding it considers adequate and appropriate in a timely fashion. Final decisions remain with the executive.</p>	<p>+</p> <p>Increased likelihood that a body focused on Parliament will provide funding it considers adequate and appropriate in a timely fashion.</p>

	Option 1 – Status Quo	Option 2A - Select Committee Process (recommendations to the House)	Option 2B - Select Committee Process (recommendations and Budget bid process)	Option 3 – Appropriations recommended to the House by independent or semi-independent body
Transparency and Accountability	0 Treasury provides independent fiscal scrutiny. The process is transparent, which means the parliamentary agencies can be held to account.	0 Some risk of lack of public trust in committee’s decision due to perception it makes decisions in its own favour. However, this risk is mitigated by enhanced requirements for independent advice and transparency.	0 Some risk of lack of public trust in committee’s decision due to perception it makes decisions in its own favour. However, this risk is mitigated by final decision remaining with executive.	0 High level of fiscal scrutiny over both member funding and administrative services provided by parliamentary agencies. Limited transparency depending on procedures adopted by body for public participation and information disclosure.
Independence, Discretion and Neutrality	0 Treasury provides a highly independent assessment, but it assesses bids based upon priorities of Government of the day.	+ Funding not influenced by Government priorities. Some risk funding mechanism could be used to try and influence the parliamentary agencies. The risk is mitigated by enhanced requirements for independent advice and transparency and by select committee having membership from all political parties represented in Parliament.	0 Ultimately, funding based on Government priorities. However, recommendations made by select committee, which has membership from all political parties represented in Parliament.	++ Statutory independence maintains trust in process. Neutrality of parliamentary agencies preserved.
Implementation Difficulty	0	0	0	-- Creation of a permanent independent body complex and time-consuming
Value for Money	0	0	0	-- Creation of a permanent independent body difficult and highly expensive



	Option 1 – Status Quo	Option 2A - Select Committee Process (recommendations to the House)	Option 2B - Select Committee Process (recommendations and Budget bid process)	Option 3 – Appropriations recommended to the House by independent or semi-independent body
<b>OVERALL ASSESSMENT</b>	0	++ Much better than doing nothing/the status quo	+ Better than doing nothing/the status quo	- Worse than doing nothing/the status quo

**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

- 57. We prefer **Option 2A (the select committee model (recommendations to the House))**.
- 58. This option would provide the best combination of constitutional propriety, adequacy of funding, independence, ease of implementation, and value for money. Its potential weaknesses can be mitigated by our recommended transparency and accountability measures. As the sixth ARC noted in 2015, the current arrangements weaken the separation of powers and new arrangements should reflect the separation of the legislature from the executive more appropriately.
- 59. Under this option the funding (the specific appropriations) to maintain the parliamentary complex, which is a Crown asset, are excluded from this funding process.
- 60. Option 2B is also more viable than the status quo. However, as final decision-making would remain with the executive, its protection of the constitutional principles that the House determines its own procedures and the separation of powers between the executive and the legislature would not be as effective.

**What are the marginal costs and benefits of the option?**

- 61. Option 2A would use existing administrative resources and we anticipate no additional costs. We expect that the cost of contracting independent financial advice for the committee would be offset by other savings, which are set out in **Part 2 – Role of the Appropriations Review Committee**.

Affected groups (identify)	Comment nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks.	Impact \$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.	Evidence Certainty High, medium, or low, and explain reasoning in comment column.
Additional costs of the preferred option compared to taking no action			
Regulated groups	Office of the Clerk/Parliament Probable changes to Standing Orders Office of the Clerk (ongoing) Additional administrative services provided by the Office of the Clerk to support the select committee.	Negligible (using existing resources and absorbed within baseline)	High
Regulators	Nil	Nil	High

<b>Others (e.g. wider govt, consumers, etc.)</b>	<i>Public</i> Risk process seen as lacking independence and external fiscal scrutiny (mitigated)	Low (with mitigations)	Medium
<b>Total monetised costs</b>	<i>Office of the Clerk/Parliament</i> Probable changes to Standing Orders <i>Office of the Clerk (ongoing)</i> Additional administrative services provided by the Office of the Clerk to support the select committee.	Negligible (using existing resources and absorbed within baseline)	High
<b>Non-monetised costs</b>	<i>Public</i> Risk process seen as lacking independence and external fiscal scrutiny (mitigated)	Low (with mitigations)	Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
<b>Regulated groups</b>	<i>Legislature</i> Enhanced separation of powers	High	High
	<i>Members of Parliament/ Parliamentary agencies</i> Adequate funding to perform parliamentary functions effectively	Cannot be quantified as matter is for Parliament to decide	Medium
<b>Regulators</b>	Nil	Nil	High
<b>Others (e.g. wider govt, consumers, etc.)</b>	<i>Public</i> Adequate funding for parliamentary representatives. Improves efficacy and advocacy	Medium	Medium
<b>Total monetised benefits</b>	<i>Members of Parliament/ Parliamentary agencies</i> Adequate funding to perform parliamentary functions effectively	Cannot be quantified as matter is for Parliament to decide	Medium
<b>Non-monetised benefits</b>	<i>Legislature</i> Enhanced separation of powers	High	High
	<i>Public</i>	Medium	Medium

	Adequate funding for parliamentary representatives. Improves efficacy and advocacy		
--	--	--	--

## Section 3: Delivering an option

### How will the new arrangements be implemented?

62. Implementing Option 2A would be relatively simple because it would use the existing infrastructure provided by the Office of the Clerk to support the Officers of Parliament Committee. Additional resources would not be required.
63. Implementation is likely to include the following:
  - a. Amending Parliament's Standing Orders to prescribe the name, role and functions of the select committee. This could be done as part of the regular review of the Standing Orders that occurs at the end of each parliamentary term. Depending on when the Bill is passed, this could take place as part of the 2023 review, or could be implemented by sessional orders if the Bill is passed too late to meet the timeframes of that review.
  - b. Appointing independent advisers. It is assumed that the appointment of advisers will be done by the committee on either an annual or a triennial basis. Appointments will likely take place early in the committee's consideration of the parliamentary agencies' funding requests.
64. If the Parliament Bill is enacted in April/May 2023, the new arrangements would apply to Budget 2024/2025, as the funding process would begin in the latter half of 2023.
65. The auditing arrangements for the parliamentary agencies would not change; the Auditor-General would continue to be the auditor for both the Office of the Clerk and the Parliamentary Service because they are public entities under the Public Audit Act 2001.
66. Other requirements under the Public Finance Act 1989 would remain unchanged: the Speaker would be the responsible Minister (as he is for the Officers of Parliament that already use this model) and would remain accountable to the House for expenditure from the appropriations of the parliamentary agencies. The parliamentary agencies would continue to publish and present information on their strategic intentions.

### How will the new arrangements be monitored, evaluated, and reviewed?

67. Refer *Regulatory Impact Statement 1: Parliament Bill – Overall Bill* for the description of how the implementation and operation of the policy proposals provided for in the Bill will be evaluated.

## PART 2 – ROLE OF THE APPROPRIATIONS REVIEW COMMITTEE

2. We consider all the options in this section viable combined with our recommended option in Part 1.

### Section 1: Diagnosing the policy problem

#### What is the context of the policy problem and how is the status quo expected to develop?

##### The role of the Appropriations Review Committee

3. The Parliamentary Service Act 2000 provides that the Speaker must, at least once during every term of Parliament and after consulting the Parliamentary Service Commission, establish a committee of up to 3 people to review the amounts of money in Appropriation Acts for:<sup>24</sup>
  - a. administrative and support services for the parliamentary operations of members of Parliament, parties, and qualifying electoral candidates
  - b. communications services for members of Parliament and qualifying electoral candidates
  - c. party and member support funding (allocations to parliamentary parties and individual members).
4. An Appropriations Review Committee (ARC) performs its role every three years. The ARC's members are appointed by the Speaker, after having consulted the Parliamentary Service Commission, and chosen for their skills and experience. Traditionally, ARC members have been former senior politicians and/or people with significant governance or financial experience.<sup>25</sup> The way in which an ARC is established ensures its independence from both those directly affected by the appropriations (members and parties), and the agency that administers the appropriations (the Parliamentary Service).
5. Before the ARC reports to the Speaker, the committee must consult with the Parliamentary Service Commission. In practice, once the committee reports, the Speaker seeks advice from the Parliamentary Service Commission on whether its recommendations should be adopted. Any recommendations that the commission and the Speaker decide to progress are given to a sub-committee of members to develop further and determine if they can be implemented.
6. The ARC appears to have been originally designed to be an independent check on the appropriateness of parliamentary funding, because the executive has control of much of the appropriations process. The specific task of the ARC was intended to be “to

---

<sup>24</sup> Parliamentary Service Act 2000, section 20(1).

<sup>25</sup> The Act provides that the Speaker may appoint persons to the review committee on any terms and conditions, including terms and conditions as to remuneration and travelling allowances, that the Speaker considers appropriate.

recommend the dollar benchmark for the funding of members support, for the forthcoming parliament. Its report would be recommendatory to assist in the budget process.”<sup>26</sup> In practice, however, the ARC plays no part in the appropriations process. Instead, the ARC reviews the Parliamentary Service’s strategic performance, and against the goals of efficiency and effectiveness.

7. Since the process was set up, seven ARCs have been established and reported on their work. An eighth ARC is scheduled to be appointed and start its work in early 2022.

### Findings of the seventh Appropriations Review Committee (2018)<sup>27</sup>

8. Among its findings, the seventh ARC noted:

*The triennial review appears to be the primary mechanism for evaluating and reviewing service requirements. Together with other accountability documents, these reviews play an important role in ensuring public accountability and transparency. However, these reviews only occur every three years, and tend to result in only relatively small adjustments. The Speaker needs to play a more active role in regularly monitoring the services being provided, considering whether members’ needs are being met, and setting expectations for improvements, as part of being accountable to members. [ ] The PSC has a significant role in the stewardship of Parliament, through its role in setting policy for the resources and services that support Parliament. The Committee received feedback that there is opportunity for the PSC to drive the agenda more, and play a stronger role. The PSC has tended to focus on operational detail, rather than providing more strategic support and advice to the Speaker about the resources and services for Parliament.*<sup>28</sup>

*We recommend establishing an expert advisory board to support the Speaker and the PSC. An advisory board would support the Speaker and PSC with expert advice on investment and procurement. It would ensure that the right skills and capabilities are brought to bear on important decisions about the funding and services required for Parliament. The board could help the Speaker and PSC identify innovative ways of responding to the changing needs of MPs, parties and Parliament, providing advice on different ways of spending to get services that are cutting edge. It would help to ensure that Parliamentary Service activities are fit-for-purpose and future-focused.*

---

<sup>26</sup> Report of Review Team on a Review of the Parliamentary Service Act to the Parliamentary Service Commission, February 1999.

<sup>27</sup> Towards a World-Leading Democracy, Ahu Atu Ai ki Tetahi Ao-Manapori Arataki, Report of the Seventh Triennial Appropriations Review Committee, 17 August 2018.

<sup>28</sup> *Ibid*, page 20.

**What is the policy problem or opportunity?**

- 9. Seven ARC reports have been completed since the Parliamentary Service Act 2000 came into force, and it is timely to review the role and purpose of the ARC. The problem is also linked to the other proposal in this Regulatory Impact Statement (Part 1 – Funding arrangements for Parliament) of how Parliament is funded.
- 10. We have identified some issues relating to the operation of the ARC:
  - a. The ARC process does not connect to the Budget process, so there is often a considerable length of time between the ARC recommendations being agreed with the Parliamentary Service Commission and the next Budget round to implement those changes. This risks significant changes having already occurred in the political and socio-economic environments between the recommendations and the Budget process so the funding is no longer adequate or appropriate.
  - b. The link between an ARC’s recommendations and the appropriations of the Parliamentary Service is not clearly established, and often the ARC’s recommendations are not directly related to parliamentary funding matters.
  - c. The provisions about the formation of an ARC and its duties are prescriptive and expensive. Fulfilling these requirements often takes longer than the three-month review period that the legislation allows for. This means that an ARC may be unable to consider a range of issues.
- 11. The Green Party’s view is that the status quo ARC process favours the major parties because the ARC is generally made up of former members of the major parties. The Green Party notes that historically, the ARC’s more transformational recommendations have sometimes not been adopted in full.

**What objectives are sought in relation to the policy problem?**

- 12. The objectives of this policy are the same as those in Part 1 of this paper:
  - a. Parliamentary funding should be adequate, appropriate, effective, and efficiently delivered in order to promote a healthy and thriving democracy
  - b. The House of Representatives should preserve its right to control its own affairs, while also being fiscally responsible, accountable for, and transparent in its use of public money.

**Section 2: Deciding on an option to address the policy problem**

**Which criteria will be used to compare options to the status quo?**

13. The following specific criteria have been developed in order to assess the options:

Criterion	What it means
Constitutional Propriety	<ul style="list-style-type: none"> <li>• Upholds principle that Parliament controls its own affairs</li> </ul>

	<ul style="list-style-type: none"> <li>• Appropriately separates the legislature and the executive</li> </ul>
<b>Adequacy</b>	<ul style="list-style-type: none"> <li>• Funding is adequate and appropriate to carry out the role</li> <li>• Funding is efficiently and effectively provided</li> </ul>
<b>Administrative Excellence</b>	<ul style="list-style-type: none"> <li>• Services are provided efficiently and effectively and performed to achieve the following: <ul style="list-style-type: none"> <li>• consistency, responsiveness, and timeliness</li> <li>• accessibility, flexibility, and adaptability</li> <li>• administrative burden and cost reduced where possible</li> </ul> </li> </ul>
<b>Transparency and Accountability</b>	<ul style="list-style-type: none"> <li>• Participants in parliamentary duties are responsible for their use of public funding. The public has access to adequate information to hold participants in parliamentary duties to account for their use of funding</li> </ul>
<b>Independence, Discretion and Neutrality</b>	<ul style="list-style-type: none"> <li>• Maintains public trust and confidence in Parliament's integrity and legitimacy as an institution separate from the Government</li> <li>• Maintains the trust and confidence of members and parties across the House.</li> </ul>

14. Some generic criteria (difficulty of implementation and value for money) have also been considered.

### What scope will options be considered within?

15. There have been no limits on the scope of the options considered. However, time constraints have limited the opportunity to consult stakeholders on the problem and the possible options. This policy should be read with **Part 1 (Funding arrangements for the Parliamentary Service and the Office of the Clerk)**.
16. We also considered the following options:
- Empowering the ARC to determine its own terms of reference for its reports
  - Recommendations made by an ARC in its review report being binding after the ARC has consulted with the Speaker and the Parliamentary Service Commission.
17. We have given these options a lower rating for independence because we consider they would interfere to an inappropriate degree with the privileges of the House.

### What options are being considered?

18. We considered the following options:
- Option 1A – Counterfactual
  - Option 1B – Make improvements to the role of the Appropriations Review Committee
  - Option 2 – Replace the role of the Appropriations Review Committee

#### Option 1A – Counterfactual



19. Under the counterfactual, the ARC would retain its triennial advisory role. Some administrative changes are being made for the next ARC. The eighth ARC will begin its review in early 2022 instead of during the first year of the parliamentary term, which had become tradition. It will have clear terms of reference and will seek submissions and conduct hearings to allow parliamentary party caucuses and others to contribute.
20. While the proposed improvements are aimed at ensuring that the ARC's recommendations can be implemented in a timelier way between terms of Parliament, they will not resolve the more structural problem. The lack of a clear link between the work of the ARC and the Budget process would remain. The ARC's triennial process means that it does not provide flexibility to respond to funding matters in annual appropriations.

#### **Option 1B - Make improvements to the role of the Appropriations Review Committee**

21. Under this option, the ARC would retain its current form, but it would be established annually, and its establishment and reporting requirements would be formally linked in time to the Budget process.
22. As a number of the appropriations within Vote Parliamentary Service are multi-year appropriations, it is expected that the work of the ARC will be greater in the first year of a term of Parliament and smaller in the following two years.
23. While this option would address concerns regarding the link between the work of the ARC and the Budget process, and concerns about the timeliness of implementing its recommendations, it will not address the concerns regarding the cost of the ARC process and would instead worsen that problem.

#### **Option 2 - Replace the role of the Appropriations Review Committee**

24. This option provides the greatest flexibility to respond when issues regarding the adequacy of funding arise.
25. Under this option:
  - a. The Parliament Bill would disestablish the ARC
  - b. The Speaker could commission independent advice to support funding, investment, and procurement decisions.<sup>29</sup> Advice would be targeted to specific matters and could be provided on both short-term and long-term issues and opportunities, as commissioned by Parliament and as advisory needs dictate (for example, pre-Budget). There would be no statutory requirement for advice to be commissioned on any particular matter.
26. The independent advice could be provided by a semi-permanent expert advisory board (as recommended by the seventh ARC in 2018) or by individual advisers, whom select

---

<sup>29</sup> This could include the matters reported on by the current ARC but also wider matters.

committees currently use. The appointment of advisers would remain subject to consultation with the Parliamentary Service Commission.

27. Independent advice commissioned for the purpose of considering matters currently within the remit of the ARC (considering the adequacy and efficient use of money appropriated as part of Vote Parliamentary Service) would be subject to a requirement to consult the Parliamentary Service Commission.
28. The independent advisers appointed by the Speaker could also be used by the select committee that is charged with making parliamentary funding decisions (see Part 1: we recommend a select committee for this role). Were they to be used in that way, the requirement to consult the Parliamentary Service Commission would not apply to that advice, as that process will be governed by the rules and practices of the House.
29. While this option risks reducing transparency, as the advice would not be presented to the House like the report of the ARC, this risk can be mitigated by implementing proactive disclosure of the advice, unless there are good reasons to withhold it.
30. For analysis purposes, this paper assumes some continuity of advisers over time. It also assumes that the appointed advisers will have the core skills required to provide expert advice without contracting further expertise.

## How do the options compare to the status quo/counterfactual?

### Key for qualitative judgements:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

	Option1A – Counterfactual	Option 1B – Make improvements to the role of the Appropriations Review Committee	Option 2 - Replace the role of the Appropriations Review Committee
<b>Constitutional propriety</b>	0 The ARC sometimes reports on matters outside its remit.	0 The ARC sometimes reports on matters outside its remit.	+ Parliament determines its own affairs (advice as and when required)
<b>Adequacy</b>	0 Changes made as a result of ARC decisions tend to be minor.	+ Advice would be more targeted and provided on a timelier basis than under current arrangements. This would assist in obtaining adequate and appropriate funding via Budgetary processes.	+ Supports decision-making with suitable expertise. Advice would be more targeted and provided on a timelier basis than under current arrangements. This would assist in obtaining adequate and appropriate funding via Budgetary processes.  Continuity of adviser/s would assist with a more strategic approach to parliamentary funding and services, including between different parliaments.
<b>Administrative Excellence</b>	0 New ARC members must be inducted and administrative support must be set up triennially. This has efficiency and effectiveness weaknesses.	- New ARC members must be inducted and administrative support must be set up annually. This has significant efficiency and effectiveness weaknesses.	++ Continuity of advice, greater economies and effectiveness of function from not having to induct new members into their roles as often as current arrangements.

	Option1A – Counterfactual	Option 1B – Make improvements to the role of the Appropriations Review Committee	Option 2 - Replace the role of the Appropriations Review Committee
			Provides maximum flexibility in obtaining required advice.
<b>Transparency and Accountability</b>	<p>0</p> <p>ARC reports are published and presented to the House. External knowledge of their existence appears low.</p>	<p>0</p> <p>ARC reports are published and presented to the House. External knowledge of their existence appears low.</p>	<p>-</p> <p>Potential for loss of transparency under this option, as ARC reports are made public.</p> <p>The advice provided to the select committee would be public, but Budget-sensitive information would need to be withheld in the pre-Budget period. This would increase the assessment of transparency and accountability. Advice provided to the Speaker or the Parliamentary Service Commission would remain confidential.</p>
<b>Independence, Discretion and Neutrality</b>	<p>0</p> <p>Highly independent, discreet, and neutral.</p>	<p>0</p> <p>Highly independent, discreet, and neutral.</p>	<p>0</p> <p>Assuming appropriate appointment processes, external advice would continue be independent, discreet, and neutral.</p> <p>Allowing the House to choose its own advisers and the scope of its advice would maintain the House’s trust and confidence in the advice provided.</p> <p>Risk of advisers becoming less independent without a statutory mandate as under current arrangements. This would need to be monitored as a risk and form part of an evaluation of the Parliament Act.</p>

	Option1A – Counterfactual	Option 1B – Make improvements to the role of the Appropriations Review Committee	Option 2 - Replace the role of the Appropriations Review Committee
<b>Implementation Difficulty</b>	0	- Moving to annual set up for the ARC would require additional funding for associated costs	+ Likelihood of developing regular advisers, leading to easier ongoing implementation needs versus need to formally appoint advisers every three years.
<b>Value for Money</b>	0	- Would increase the already significant costs of the ARC	+ Efficiencies from creating a standing semi-permanent advisory role. Costs estimated to be halved over the three years period.
<b>OVERALL ASSESSMENT</b>	0	- Worse than doing nothing/the status quo/counterfactual	+ Better than doing nothing/the counterfactual.

## Which option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

31. We prefer Option 2 (Replace the role of the Appropriations Review Committee). This option would provide high levels of flexibility and timeliness for advice. This means that the advice can be sought to address issues that members collectively encounter, as they come to light. In addition, advice can be provided in a timely way to support the Budget process on an annual basis. Having advice be made publicly available by pro-active release (with the exception of Budget-sensitive information being withheld until the Budget) provides adequate transparency.

## What are the marginal costs and benefits of the option?

Affected groups ( <i>identify</i> )	Comment on nature of cost or benefit (e.g. <i>ongoing, one-off</i> ), <i>evidence and assumption (e.g. compliance rates)</i> , risks.	Impact \$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.	Evidence Certainty High, medium, or low, and explain reasoning in comment column.
Additional costs of the preferred option compared to taking no action			
<b>Regulated groups</b>	Nil	Nil	High
<b>Regulators</b>	<i>Parliamentary Service</i> Independent adviser/s, and internal administrative support	Approx \$0.1m for independent advisers across three years (offset by savings, refer to benefits below) Otherwise negligible (using existing resources and absorbed within baseline)	Medium (based on assumptions noted)
<b>Others (e.g. wider govt, consumers, etc.)</b>	<i>Public</i> Risk process seen as lacking independence and external fiscal scrutiny (mitigated)	Low (with mitigations)	Medium
<b>Total monetised costs</b>	<i>Parliamentary Service</i> Independent adviser/s, and internal administrative support	Approx \$0.1m for independent advisers across three years (offset by savings, refer to benefits below) Otherwise negligible (using existing resources and absorbed within baseline)	Medium (based on assumptions noted)
<b>Non-monetised costs</b>	<i>Public</i> Risk process seen as lacking independence	Low (with mitigations)	Medium

	and external fiscal scrutiny (mitigated)		
Additional benefits of the preferred option compared to taking no action			
<b>Regulated groups</b>	Nil	Nil	High
<b>Regulators</b>	<i>Parliamentary Service</i> Savings in advisory fees and related costs	Savings of at least \$0.1m over three years <i>Based upon cost estimates of independent advisers, which is offset by cost of current ARC (\$0.2m triennially)</i>	Medium <i>Uncertainty around appointment of advisers. Based on several assumptions.<sup>30</sup></i>
<b>Others (e.g. wider govt, consumers, etc.)</b>	<i>Members of Parliament</i> Timelier and more flexible advice leads to adequate funding levels.	High	Medium/High
<b>Total monetised benefits</b>	<i>Parliamentary Service</i> Saving in advisory fees and related costs	Savings of at least \$0.1m over three years	Medium
<b>Non-monetised benefits</b>	<i>Members of Parliament</i> Timelier and more flexible advice leads to enhanced service levels.	High	Medium/High

32. Under the current ARC model, membership fees are set under the fees framework for members appointed to bodies in which the Crown has an interest. There is no proposal to change this approach to setting the independent advisers' fees. Although the fees may not be considered comparative to those in the private sector, there is a public service component to the roles of such advisers.
33. Much of the ARC budget goes towards the administrative support services. For the seventh ARC, it was approximately \$0.1m, which was half the ARC budget. Under this option, it is estimated that the independent advisers would cost \$33,333 less each year than an ARC to operate.
34. We also assume some efficiencies will be generated by narrowing the focus of the advice to specific matters identified in the commissioning as well as the institutional knowledge the advisers would develop without the need for an ARC to be re-formed and inducted every three years.

---

<sup>30</sup> Assumptions include: maximum three appointed independent advisers; daily fees to be determined under CO (19) 1: *Fees Framework for members appointed to bodies in which the Crown has an interest* (members have been identified as Group 4, Level 3); 20 days' work annually in Year 1 and Year 2, 25 days in Year 3; some domestic travel required. This calculation provides a range of \$17,600 - \$31,100 in Y1 and Y2, and a range of \$22,850 - \$39,725 in Y3. The maximum end of the range is anticipated.

## Section 3: Delivering an option

### How will the new arrangements be implemented?

35. There will need to be an agreed process to appoint advisers. Related details will need to be determined, including: the skills and experience advisers would need to possess; and the terms and conditions for the appointment of independent advisers.
36. It is possible that the 2022 ARC's review will be in progress when the Parliament Bill comes into force. The bill will need to include provisions so that process may be completed under the previous arrangements.

### How will the new arrangements be monitored, evaluated, and reviewed?

37. Refer to the *Regulatory Impact Statement 1: Parliament Bill – Overall Bill* for a description of how the policy proposals under the Bill will be evaluated.
38. The Parliamentary Service Commission could also be a mechanism for monitoring the services Parliament receives on an ongoing basis. The Commission, which represents all parties and is chaired by the Speaker, typically meets every two months, and could advise the Speaker if there was an urgent need to seek independent advice about the adequacy of funding.



## Appendix

### How will the new arrangements be implemented?

Below is the Treasury's analysis of the Budget for the Parliamentary Service at Budget 2021 for 2021/22:

<b>Appropriations Grouped (from the 2021/22 Estimates)</b>	<b>\$ M</b>
<b>Funding for Parliamentary Operations</b>	
Support Services to the Speaker	0.174
Members' Communications	3.348
Travel of Members and Others	4.800
Parliamentary Information Communications and Technology Services	21.523
Parliamentary Library	7.349
Personnel, Accounting and Advisory Services to Members and Other Parliamentary Agencies	11.362
Additional Support to Members	0.300
Final and Other Contracted Payments to Staff	0.178
Party and Member Support 53 <sup>rd</sup> Parliament-ACT	3.415
Party and Member Support 53 <sup>rd</sup> Parliament-Green	3.104
Party and Member Support 53 <sup>rd</sup> Parliament-Labour	22.957
Party and Member Support 53 <sup>rd</sup> Parliament-National	13.757
Party and Member Support 53 <sup>rd</sup> Parliament-Te Paati Māori	1.215
<b>Sub Total</b>	<b>93.482</b>
<b>Funding to Maintain the Parliamentary Complex (a significant Crown Asset)</b>	
Parliamentary Service – Capital Expenditure PLA	2.240
Depreciation Expense on Parliamentary Complex	17.000
Building and Operations Management	29.209
Crown Asset Management	11.300

Future Accommodation Strategy	6.997
<b>Sub Total</b>	<b>66.746</b>
<b>Funding Determined by the Remuneration Authority</b>	
Accommodation of Members and Travel of Members' Families PLA	3.200
Members of the House of Representatives' Salaries and Allowances PLA	22.000
<b>Sub Total</b>	<b>25.200</b>
<b>Other</b>	
Travel of Former MPs	1.300
<b>Sub Total</b>	<b>1.300</b>
<b>Total</b>	<b>186.728</b>